IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21884-2024
Reserved on: 03.09.2024
Pronounced on: 09.09.2024

SUNIL **....Petitioner**

Versus

STATE OF HARYANA AND OTHERS **.....Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Karan Jindal, Assistant Advocate General, Haryana,
Ms. Kushaldeep Kaur, Advocate.

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VIKRAM AGGARWAL, J.

1. The petitioner assails the order dated 26.06.2024 (Annexure P-7) vide which the application dated 02.12.2021 (Annexure P-6) moved by the petitioner for restoration of the allotment of plot No.2985, IMT Kharkhauda was rejected. He also prays for the issuance of a mandamus directing the respondents to restore the said plot in the name of the petitioner in continuation of the Regular Letter of Allotment dated 08.07.2021 (Annexure P-2) and to not re-allot the said plot to anyone else during the pendency of the present petition.

2. The petitioner was a successful bidder in an E-auction conducted by the Haryana State Industrial and Infrastructure Development Corporation Limited (for short 'the corporation') for allotment of industrial plots on 01.12.2020 in IMT Kharkhauda. The petitioner had given a bid of Rs.80,12,250/- for plot No.2985, IMT Kharkhauda measuring 450 square meters (hereinafter referred to as the 'disputed plot'). 10% of the reserve price had been deposited as earnest money. Regular letter of allotment dated 08.07.2021 (Annexure P-2) was issued after which 15% of the tentative price of the plot which was Rs.80,12,250/- was to be deposited making the

total to be 25% of the sale consideration. The 15% amount was payable within 30 days from the date of issuance of RLA extendable by a further period of 30 days.

3. The case of the petitioner is that the petitioner had deposited the 15% amount through two NEFTs amounting to Rs.6,00,918.75/- each in favour of the corporation which is duly proved from the account statement (Annexure P-3). However, he received a communication dated 28.10.2021 (Annexure P-4) from the corporation stating that on account of non-compliance of the terms and conditions of allotment i.e. non-deposit of 15% of the tentative price within the stipulated period, the allotment stood lapsed and the allotment letter dated 08.07.2021 stood withdrawn and 10% earnest money stood forfeited.

4. Upon inquiry, the petitioner came to know that on account of some technical issue, the amount was not transferred by the bank of the petitioner to the corporation and it was subsequently credited back into the account of the petitioner without his knowledge regarding which a communication dated 30.11.2021 (Annexure P-5) was also issued by the bank.

5. An appeal was immediately preferred by the petitioner against the order dated 28.10.2021 which was, however, rejected on 26.06.2024 (Annexure P-7) after two and a half years of its filing. It was held that the appeal was not maintainable as the same could lie only against an order of allotment and not against an order of lapse of allotment on account of non-payment of the price. This order led to the filing of the instant writ petition.

6. Learned counsel for the parties were heard.

7. It was submitted by learned counsel for the petitioner that the petitioner had deposited the amount with the bank well within time and on account of some technical issue, the same was not transferred by the bank of the petitioner to the corporation and without any information to the petitioner, the amount was credited

back into the account of the petitioner. Reference was made to the communication dated 30.11.2021 issued by the bank in this regard. Learned counsel submitted that since the petitioner was not at fault, the corporation should have sympathetically considered the case of the petitioner and instead of doing the same, they kept the appeal pending for two and a half years and, thereafter, dismissed the same.

8. Per contra, Mr. Ankur Mittal, learned counsel representing the respondent-corporation, who caused appearance on advance copy having been served made pointed reference to Clauses 2(ii) and 2(iii) of the Regular Letter of Allotment dated 08.07.2021 and submitted that since the price was not paid within the stipulated period, the allotment automatically lapsed. Even as per Clause 2(iv), an agreement was to be executed by the petitioner within a period of 60 days which was further extendable by a period of 60 days, which was also not done and instead, the petitioner, for the first time approached the respondents, in December 2021 when all time frames had lapsed. Learned counsel submitted that the appeal was also rightly rejected as the same was not maintainable, though the same was not dismissed on maintainability alone and the merits were also discussed. Reference in this regard was made to paragraphs 6, 7 and 8 of the impugned order.

9. We have considered the submissions made by learned counsel for the parties.

10. The disputed plot was allotted to the petitioner vide Regular Letter of Allotment dated 08.07.2021 for a total sale consideration of Rs.80,12,250/-. It is the admitted case of the parties that after deposit of 10% as earnest money, the petitioner was required to deposited balance 15% (to make a total of 25%) within a period of 30 days from 08.07.2021 which was further extendable by a period of 30 days with interest @ 15% per annum. Admittedly, this 15% was never received by the corporation. No doubt, the petitioner did make a transaction with his bank but due to

some glitch, the amount was not transferred to the corporation and a communication dated 30.11.2021 in this regard was also issued by the bank. It was also stated that the amount deposited by the petitioner was credited back into his account without his knowledge and the same remained unutilized in his account. However, this alone would not be sufficient to bind the corporation because as per Clause 2(iii) of the allotment letter, in case of failure to submit a letter of acceptance and 15% price within a period of 30 days from the date of issuance of RLA or with interest @ 15% within a further period of 30 days, the allotment was to automatically lapse:-

> **"In the event you fail to submit the Letter of Acceptance, together with payment towards 15% price to make up 25% of the tentative price of the aforesaid industrial plot, within 30 days from the date of issuance of RLA or with interest thereon @ 15.00% p.a. within further extendable period of 30 days, please note that in such eventuality, this allotment shall automatically lapse after the expiry of above stipulated period of 60 days; and the case shall be dealt as per the provisions of EMP-2015 as amended from time to time."**

11. Once the amount was not transferred to the corporation, the allotment automatically lapsed. The glitch at the end of the bank would not come to the aid of the petitioner for the corporation as also the petitioner are bound by the terms and conditions of the letter of allotment and the only thing which was required to be done was to deposit the 15% amount with the corporation and the corporation would not really be bothered about some glitch at the end of the bank because of the categoric provision in the Regular Letter of Allotment. Even though the appellate authority came to the conclusion that an appeal was not maintainable in terms of Clause 6.3 (a) of the Estate Management Procedure (EMP), 2015, it did discuss the merits of the case and relying upon the provisions of the RLA, upheld the lapse of the allotment:-

> **"7. Since the appellant has failed to deposit 15% price of the plot within a period of 60 days of issuance of RLA, therefore, the**

allotment of plot stood lapsed, which aspect was duly informed by the Corporation vide its letter dated 28.10.2021.

8. The contention of the appellant that before the due date i.e. on 06.08.2021, the appellant deposited 15% amount, through NEFT, amounting to Rs.12,01,837.50/- but was returned is devoid of merit. Even if it is assumed that the alleged NEFT was made by the appellant and was returned, the appellant was having ample opportunity to deposit the amount, however, the appellant failed to do so.

9. Further, as per Clause 6.3 (a) of Estate Management Procedure (EMP)-2015, an appeal lies only against the orders of resumption passed by the Managing Director, HSIIDC. Since the present case is not a case of resumption of plot, but of lapse of allotment on account of non-payment of price of plot, therefore, an appeal against the lapsing of allotment on account of non-deposit of requisite amount within the stipulated time, will not be maintainable."

The order, being in accordance with the applicable terms and conditions, does not call for any interference.

In view of the aforementioned facts and circumstances, we do not find any merit in the instant writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 09.09.2024
Prince Chawla

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*