

2025.PHHC:051995-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-1911-2025 (O&M)

Date of decision: 22.04.2025

HUKAM KAUR

.....Petitioner

Versus

STATE OF HARYANA & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Chirag Wadhwa, Advocate for the petitioner.

SUDHIR SINGH, J.

The petitioner has sought issuance of a writ in the nature of Certiorari quashing the order dated 24.07.2024 (Annexure P-7) passed by respondent No.4, whereby the claim of the petitioner for compensation/allotment of the deficit area (34 square yards) of Plot No.2187, Sector-8, Faridabad, has been rejected.

2. Learned counsel for the petitioner submits that the petitioner had filed a civil suit for declaration with the consequential relief of mandatory and permanent injunction against the respondent-authorities and the said suit was decreed vide judgment and decree dated 23.08.2013. It is further argued that an appeal against the said judgment and decree filed by the respondent-authorities was allowed by the Additional District Judge, Faridabad on 21.07.2016, against which the petitioner had filed RSA-301-2017, which was disposed of

by the learned Single Judge of this Court on 03.05.2023, in view of the compromise arrived at between the parties. It is further argued that pursuant to the decision of the learned Single Judge in the aforesaid Regular Second Appeal, the impugned order has been passed by respondent No.4 on 24.07.2024, rejecting the claim of the petitioner. Learned counsel for the petitioner argues that once the respondent-authorities had given an undertaking in the Regular Second Appeal before the learned Single Judge in respect of the allotment of the deficit area to the petitioner, the rejection of her claim is totally illegal, unjustified and not tenable in the eyes of law.

3. Served with the advance copy of the writ petition, Mr. Gourav Bansal, DAG, Haryana appears for the respondent-State, whereas Mr. Ankur Mittal, Advocate along with Ms. Saanvi Singla, Advocate appears for respondents-HSVP and submit that the present writ petition is not maintainable.

4. We have heard the learned counsel for the parties.

5. We may notice that the petitioner has already agitated her claim before the Civil Court by way of a civil suit, which was decreed on 23.08.2013, but the appeal against the said judgment and decree was allowed by the Additional District Judge, Faridabad on 21.07.2016. In the Regular Second Appeal filed by the petitioner, the matter between the parties was compromised and accordingly, the learned Single Judge vide order dated 03.05.2023 disposed of the said Regular Second Appeal in terms of the said compromise. The relevant extracts from the order dated 03.05.2023 passed by the learned Single Judge, would read as under:-

“Learned counsel for the appellant submits that as of now, the HUDA has already issued a notice to respondent No.3 for deleting plot No.2188-P, which is allotted to him from the zoning plan so as to allot an alternative plot to respondent No.3, which action though was initially challenged by respondent No.3 by filing the Civil suit but the said suit was later on withdrawn and as of now, the matter is pending consideration before the HUDA as to whether or not plot No.2188-P is to be deleted from the zoning plan so as to allot an alternative plot to respondent No.3.

Learned counsel for the parties submits that in case qua the said proposal decision is taken by HUDA Authorities that plot No.2188-P is to be deleted from the zoning plan and respondent No.3 is to be allotted an alternative site, the land which will become available on deletion of plot No.2188-P be considered for allotment to the appellant-plaintiff so as to allot 160 sq. yards of area to her, which was initially offered.

Learned counsel for the HUDA on instructions from Sh. Vijya, JE submits that appropriate decision on both counts will be taken and in case it is decided by the competent authority in HUDA so as to delete plot No.-2188-P from the zoning plan and respondent No.3 is to be allotted an alternative site and the area of plot No.2188-P, which will become available and against the said available area, the claim of appellant-plaintiff for allotting her some of the available area so as to make her plot 160 sq. yards, will also be considered and appropriate order will be passed.

Learned counsel for the parties after receiving instructions from their respective clients, who are present in Court submit that keeping in view the said agreement between the parties, the present appeal may be disposed of in terms of the said compromise and as the parties are litigating since long, it would be appreciated that the HUDA takes appropriate decision as expeditiously as possible preferably within a period of next six weeks.”

6. Be that as it may, the fact remains that the petitioner had agreed for disposal of the Regular Second Appeal, despite the fact that the terms of compromise between the parties were conditional and the petitioner did not reserve his liberty to re-agitate his claim in case the compromise was not honored. We are constrained to observe that a perusal of the order passed by the learned Single Judge in the aforesaid Regular Second Appeal, would show that nowhere the terms of the compromise were reduced in writing or made part of the record/order. However, as we are not sitting in an appeal over the said order, no further observations are required.

7. Coming to the present writ petition, the facts of the case reveal that the plot in question was allotted to Madan Pal and Mahesh Dass on 28.03.1973. The physical possession of the plot measuring 126.66 Sq. Yards was delivered and the same was taken by the allottees on 03.01.1986. Thereafter, the said plot was transferred in the name of one Chatar Singh on 26.02.1986 and he had obtained the completion certificate on 17.09.1998 after raising the construction over the said plot. It was thereafter on 20.09.1999, the plot in question was transferred in the name of the petitioner.

8. On a specific query put by this Court, as to what was the area of the plot regarding which the sale deed was executed in favour of the petitioner, the learned counsel for the petitioner has replied that the size of the plot was 126.66 Sq. Yards. Admittedly, the petitioner is the third purchaser of the plot. There is nothing on record to indicate that the previous allottees/owner(s) of the plot had raised any objection regarding the shortfall in the area of the plot. By purchasing

the plot in the year 1999, the petitioner had stepped into the shoes of the previous owners of the said plot. She cannot have a better title than them. Having purchased the plot in question after knowing its actual size and also executing a sale deed in that regard without raising any demur, the petitioner cannot be allowed to claim the shortfall of the area in the plot, especially when, there was no grievance raised by the previous owners of the plot in this regard.

9. In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

10. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

22.04.2025
himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No