

**CM-1135-CWP-2025 in/and
CWP-10105-2023 (O&M) and
CWP-21792-2023 (O&M)**

2025:PHHC:011696



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 106+276)**

**(1) CM-1135-CWP-2025 in/and
CWP-10105-2023 (O&M)
Date of Decision : 27.01.2025**

Beena Kumari and another
...Petitioners

Versus

Chandigarh Administration and others
...Respondents

(2) CWP-21792-2023 (O&M)

Manoj Kumar
...Petitioner

Versus

Punjab and Haryana High Court and another
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Akshit Pathania, Advocate for the petitioners
in CWP-10105-2023.

Mr. Sunil K. Nehra, Advocate for the petitioner
in CWP-21792-2023.

Mr. Lokesh Aggtarwal, Senior Standing Counsel with
Mr. Deepak Malhotra, Standing counsel
for respondents No. 1 to 3 in CWP-10105-2023.

Mr. Sanjiv Ghai, Advocate with
Mr. Mayank Sharma, Advocate and
Mr. Parminder S. Kaul, Advocate for respondent No. 2
in CWP-21792-2023.

Mr. Arjun Shukla, Advocate for respondent No. 4
in CWP-10105-2023 and
for respondent No. 1 in CWP-21792-2023.



Harsimran Singh Sethi J. (Oral)

CM-1135-CWP-2025

Present application has been filed for placing on record affidavit on behalf of respondent No. 4.

Application is allowed and affidavit on behalf of respondent No. 4 is taken on record with all just exceptions.

CWP-10105-2023 (O&M) and CWP-21792-2023 (O&M)

1. In the present bunch of petitions, the grievance is qua the allotment of Govt. House No. T-13/233-A, Sector-29, Chandigarh, which was allotted to late Ashok Kumar, who was the brother-in-law of the petitioner Manoj Kumar in CWP No. 21792 of 2023 and husband and father of the petitioners respectively in CWP No. 10105 of 2023.

2. Upon cancellation of House No. T-13/233-A, Sector-29, Chandigarh which was allotted to late Ashok Kumar, the legal heirs of Ashok Kumar have been directed to deposit the rent/penal rent to the tune of ₹3,44,260/- w.e.f. 08.09.2019 till 28.09.2021 along with interest.

3. The argument raised by the learned counsel for the petitioner Manoj Kumar in CWP No. 21792 of 2023 is that Manoj Kumar had only stood surety for his brother-in-law and in case, any amount is due to Chandigarh Administration on account of the allotment of house against late Sh. Ashok Kumar, then the same be recovered from the petitioner in CWP No. 21792 of 2023.

4. Learned counsel for the petitioners in CWP No. 10105 of 2023 submits that in case, any liability arose qua the House No. T-13/233-A,



Sector-29, Chandigarh, which was allotted to late Sh. Ashok Kumar, the amount if any due, will be paid by them and the recovery be not done from Manoj Kumar. Keeping in view the said statement in CWP No. 21792 of 2023 filed by Manoj Kumar, whereby it is directed that any liability qua the House No. T-13/233-A, Sector-29, Chandigarh, which was allotted to late Sh. Ashok Kumar be done from the petitioner Beena Kumari and her son Sunny Kumar subject to any order to be passed in their writ petition.

5. Ordered accordingly.

6. Any arrears for which petitioner Manoj Kumar is entitled for and are withheld on account of the recovery, be released to him within a period of four weeks from the date of receipt of copy of this order.

7. The question with regard to the cancellation of the allotment in favour of late Sh. Ashok Kumar qua the House No. T-13/233-A, Sector-29, Chandigarh, learned counsel appearing on behalf of the petitioners in CWP-10105 of 2023 submits that the said allotment has been cancelled on the ground that the employees of the Chandigarh Administration can only by allotted house in case, they do not own house within the Tricity and in the present case, House No. 6504-B in Sector-56, which is to be treated in the name of Ashok Kumar to be the owner, had wrongly been interpreted by the Chandigarh Administration as Ashok Kumar was only the licensee of the said house and not the owner, which fact has not been taken into account while cancelling the allotment of the house in favour of Ashok Kumar so as to create the liability of the legal heirs of late Ashok Kumar towards penalty



of retaining the accommodation being House No. T-13/233-A, Sector-29, Chandigarh along with interest.

8. Learned counsel for the petitioners also argues that the question that whether a licensee, who is to pay license fee for the House in question, can be treated as owner so as to deny him the allotment of Government Accommodation, has not at all been discussed while passing the impugned order of setting-aside the allotment in favour of late Sh. Ashok Kumar and, therefore, the impugned order dated 09.09.2021 (Annexure P-7) with the direction to respondents to consider all the aspects before deciding whether the allotment in favour of late Sh. Ashok Kumar qua the dwelling unit No. T-13/233-A, Sector-29, Chandigarh in terms of the Government Residences (Chandigarh Administration General Pool) Allotment Rules, 1996 (hereinafter referred to as '1996 Rules') or not.

9. Learned counsel appearing on behalf of the respondents submits that the ownership of late Ashok Kumar qua the House No. 6504-B in Sector-56 was informed by the petitioner themselves only and the action was taken keeping in view the fact that they had submitted that Ashok Kumar owned a house during his lifetime and even prior to the allotment of the Government Accommodation, which has been cancelled and, therefore, the argument which is being raised by the learned counsel for the petitioners that the said house was on license and was not the ownership of late Ashok Kumar, cannot be entertained and the said plea may kindly be rejected and the petitioners be directed to deposit the dues admissible to the Chandigarh



Administration as on 31.01.2025 qua the House No. T-13/233-A, Sector-29, Chandigarh.

10. Learned counsel for the respondents also submits that at the time of availing the dwelling unit, Ashok Kumar submitted a wrong affidavit and after the death, the petitioners also submitted a wrong affidavit so as to continue in the dwelling unit for a period of three years instead of one year after the death of Ashok Kumar, hence, petitioners have made themselves liable to pay the penalty for wrongly occupying the premises allotted to Sh. Ashok Kumar after his death.

11. I have heard learned counsel for the parties and have gone through the record with their able assistance.

12. A bare perusal of the allotment letter dated 19.11.2006 of House No. 6504-B in Sector-56, copy of which has been appended as Annexure P-3, transpires that the allotment was made on license basis under the Chandigarh Flat Scheme, 2006. Nothing has been brought on record regarding the fact that the respondents have considered as to whether, the said allotment will amount to ownership of a dwelling unit or not. Therefore, unless and until, the Chandigarh Administration comes to a conclusion that the allotment letter dated 19.11.2006 (Annexure P-3) amounts to ownership of the dwelling unit, the owning of a house either by late Sh. Ashok Kumar or by the petitioners is not made out.

13. The respondent-Chandigarh Administration was required to give a finding on the said issue before cancelling the allotment of house in favour of late Sh. Ashok Kumar or to curtail a period of three years to one year after



the death of Ashok Kumar so as to claim the penal rent from the petitioners qua House No. T-13/233-A, Sector-29, Chandigarh.

14. The impugned order making the petitioners liable to pay the amount after the cancellation of the dwelling unit No. T-13/233-A, Sector-29, Chandigarh is set-aside. The Chandigarh Administration is directed to pass a fresh order after taking into consideration all the relevant facts including the allotment letter dated 19.11.2006 (Annexure P-3) to give a categorical finding whether, the late Sh. Ashok Kumar or after his death, the petitioners were the owners of the said dwelling unit so as to be dis-entitled for the allotment of the government house so as to liable to be paid the penal rent.

15. Petitions are disposed of in above terms.

16. Pending miscellaneous application, if any, also stands disposed of.

17. A photocopy of this order be placed on the file of connected cases.

January 27, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No