

CWP-16618-2017

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

CWP-16618-2017

Reserved on: 05.03.2025

Date of Decision : 21.04.2025

GURCHARAN SINGH

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present : Mr. G.P.S. Bal, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. S.P.S. Tinna, Advocate
Ms. Rinky Gupta, Advocate
for respondent No.2.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner has prayed for the issuance of a writ in the nature of Certiorari, whereby he seeks the quashing of the order dated 20.01.2016 (Annexure P-17), as became passed by the respondents, whereby the petitioner's claim for allotment of the subject plot became rejected. Furthermore, the petitioner also seeks the quashing of order dated 06.12.2012 (Annexure P-10) whereby the resolution dated 30.03.2012, as passed by respondent No.2, became rejected by respondent No.1, besides seeks the quashing of the order dated 04.08.2000 (Annexure P-5), passed by respondent No.2 whereby the allotment of plot bearing No.1005-G, measuring 125 sq. yards situated in Shaheed Bhagat

Singh Nagar, Ludhiana to the petitioner (Annexure P-4) through lucky draw, stood cancelled.

2. A further prayer is made for the issuance of a mandamus, thus directing the respondents to allot and give physical possession to the petitioner of plot No.1005-G, measuring 125 sq. yards, situated in Shaheed Bhagat Singh Nagar, Ludhiana.

FACTS OF THE CASE

3. The brief facts of the case, are that the Town Improvement Trust, Ludhiana, (Punjab) (hereinafter referred to as 'the Trust') invited applications from the general public in the year 1982, rather for allotment through lucky draw, of several 125 square yards residential plots under 475 acres scheme. The petitioner was then residing in Haryana and was fully eligible to apply for the said plot. He had vide application dated 26.11.1982 applied for a plot measuring 125 sq. yards. The said application became accompanied by all the requisite documents. The petitioner had also vide receipt No.48179 dated 26.11.1982, thus deposited the requisite earnest money of Rs.950/- in the office of Trust. The application of the petitioner became allotted registration No.1673.

4. The lucky draw of plots was conducted by the Trust, on 10.09.1999, and plot No.1005-G of 125 sq. yards was allotted in favour of the petitioner. The Trust did not give any intimation, regarding the date of draw of lots or qua the result of the draw to the petitioner, thus at his registered address or at any other address, rather either before or after the lucky draw. Therefore, the petitioner was not aware of the date of conducting of the draw of lots or whether the allotment of the plot is made in his favour or anything else about the draw or the allotment of the plot(s).

5. Subsequently, the then Chairman of the Trust vide a blanket order No.LET/2000/7920 dated 04.09.2000 (Annexure P-5), cancelled the allotment of all the 19 plots as made to the successful allottees, thus in the draw which became conducted, on 10.09.1999.

6. In the year 2006, the petitioner from a known person from Ludhiana, came to know about the draw by the Trust, and about the allotment of the subject plot in his favour. Soon thereafter the petitioner went to the office of the Trust to know the fate of his application. On enquiry, the petitioner came to know both about the conducting of the draw of plot in his favour and also about the allotment of the subject plot, in the year 1999, and subsequently he was also awakened about the cancellation of the allotment rather on the ground, that his application was lost. Then the officials of the Trust informed the petitioner, that the plot can be restored to him, on an application being submitted along with the necessary documents. Immediately, on 06.11.2006 the petitioner moved an application (Annexure P-6) to the Chairman of the Trust along with necessary proof(s), wherebys he sought the restoration of the subject plot.

7. When no response was received from the office of the Trust, thereupon the petitioner again submitted application on 29.09.2010 (Annexure P/7). Subsequently, he submitted another letter dated 26.05.2011 (Annexure P-8). When the petitioner visited the office of the Trust, to submit his application dated 26.05.2011, thereupon the petitioner was asked by the officials of the Trust, to fill up a prescribed proforma along with his latest attested photograph and provide other documents along with an affidavit. Accordingly, the petitioner submitted the proforma, on 26.05.2011, in the office of the Trust.

8. Accordingly, the Trust in its general meeting held, on 28.03.2012 and on 30.03.2012, under the Chairmanship of Chairman of the Trust, passed a resolution No.157 (Annexure P-9) in favour of the petitioner and the subject plot was resolved to be restored in favour of the petitioner.

9. The said resolution was sent to the Local Bodies, Department of Punjab. However, the department vide Annexure P-10 rejected the resolution of the Trust and conveyed the same to the Trust. Vide memo No.1191 of 19.03.2015 (Annexure P-14) the Trust, intimated the petitioner regarding the rejection of resolution No.157 dated 30.03.2012 by the department.

10. Thereafter, the petitioner approached this Court, through his filing CWP-15791-2015. In the meantime, the Local Body concerned, asked the Trust vide letter dated 26.05.2015 (Annexure P-12) to decide the grievance of the petitioner. In view of the said letter, the petitioner withdrew the apposite writ petition. An order to the said effect became made on 27.08.2015 (Annexure P-13).

11. On 12.10.2015 the petitioner submitted a letter dated 10.12.2015 (Annexure P-15) before the Trust and requested for allotment of the subject plot which was still lying vacant and yet was not re-allotted to anyone. When no response was received from the Trust, thereupon the petitioner sent a legal notice on 01.01.2016 (Annexure P-17), both upon the Trust and upon the department. Ultimately, the Trust vide letter No.252 dated 20.01.2016 (Annexure P-17) declined to allot the subject plot to the petitioner.

12. It is an admitted fact, that the petitioner had applied for the subject plot and he became allotted registration No.1673, evidently, he also vide Annexure P-2 made a payment of Rs.950/- as earnest money. The

receipt in respect of the apposite deposit is embodied in Annexure P-1, which also finds reflection in the record of the Trust.

13. Subsequently, and reiteratedly, the lucky draw of plots was conducted by the Trust, on 10.09.1999 and the subject plot i.e. Plot No.1005-G of 125 sq. yards was allotted in favour of the petitioner. However, it is alleged by the respondent concerned, that owing to the loss of original records, thus no intimation regarding allotment of plot could be given to the petitioner, whereupons, vide order dated 04.09.2000 the allotment of the subject plot along with the other 18 plots rather became cancelled.

14. Reiteratedly, later on, when the petitioner came to know about all above, thereupon he applied before the Trust for restoration of his plot. Ultimately, and reiteratedly, the petitioner succeeded, as the Trust in its general meeting, held on 28.03.2012 and on 30.03.2012, under the Chairmanship of Chairman of the Trust, thus passed a resolution No.157 (Annexure P/9) in favour of the petitioner and the subject plot was resolved to be restored in his favour.

15. However, the said resolution (Annexure P-9) as became sent to the Local Bodies, Department of Punjab, rather became rejected vide letter dated 06.12.2012 (Annexure P-10). The said rejection was grooved in the ground, qua the resolution respectively bearing No.130 and bearing No.157, respectively dated 28.03.2012 and dated 30.03.2012, rather standing cancelled. Moreover an explanation was also asked qua despite the original record of the Trust rather being unavailable, yet the allotments vis-a-vis them, being resolved to be made in their respective favours, thereupons but naturally suspicion becoming engendered. Relevant portion whereof becomes extracted hereinafter.

“2. Regarding the above subject, after considering your request, it has been decided that the resolution No.130 and 157 dated 28.03.2012 and 30.03.2012 stand cancelled and it should be explained that if the original record of the allottees of the plot was not available then how did the allotment took place.”

16. Thereafter reiteratedly, the petitioner approached this Court through his filing CWP-15791-2015. In the meantime, the Local Body concerned, asked the Trust vide letter dated 26.05.2015 (Annexure P-12) to decide the matter of the petitioner. In view of the said letter, the petitioner withdrew the apposite writ petition vide order 27.08.2015 (Annexure P-13).

REASONS FOR REJECTING THE SAME

17. The prima donna fact which prevails upon this Court to reject Annexure P-10 becomes founded on the factum, that since pursuant to the filing of CWP-15791-2015 whereby a challenge was made to the rejection by the Local Body concerned, qua resolution No.157 dated 30.03.2012, whereby the subject plot was resolved to be restored to the present petitioner, more especially, when rather during the pendency of the apposite writ petition, thus a direction vide Annexure P-12 became passed by the Department of Local Body, upon, the Trust, rather for deciding, the subject controversy. Preeminently since, the said annexure ultimately coaxed the petitioner to opt to withdraw the (supra) writ petition, thus leading to the pursuant thereto Annexure P-13 becoming rendered by this Court.

18. Now since pursuant to Annexure P-12, the Trust proceeded to pass resolution dated 30.03.2012 whereby the subject plots were permitted to be restored to the original allottees. Therefore, since the said decision was made pursuant to Annexure P-12, which was rendered during the pendency of writ petition (supra), and which had led the petitioner to withdraw the said

petition. Resultantly therebys it appears that the department of Local Body(ies) concerned, has through the passing of Annexure P-12, but beguiled the petitioner to withdraw the writ petition (supra). Since Annexure P-12 was made during the pendency of the writ petition (supra) wherebys a direction was passed upon the Trust, to decide afresh the apposite controversy, therebys per se the (supra) annexure, but smanifests qua the department of Local Body(ies) concerned, thus taking a conscious decision, that justice be ensured to be rendered to the allottees concerned, whereupons the subsequently rendered reason, to deprive them of the subject allotments, but naturally tantamounts to an ill resiling from the makings of Annexure P-12. Moreover, the impugned decision wherebys the resolution of the Trust, thus resolving to make the allotment(s) of the subject plots, to the allottees, rather became rejected, but is ridden with a vice of non application of mind.

19. The firmest reason for stating so emanates from the factum, that since only for existence of the original record(s) of the Trust, rather the latter became led to pass the apposite resolution, thus for restoring the plots to the allottees. Consequently, if the Trust concedes to, the destruction of the original records or concedes to the loss of the original records, wherebys the relevant deterrence became engendered, therebys the same is a well founded deterrence. Therefore, the said admissions also connote acquiescence of the respondents qua the commissions' of torts of malfeasance, misfeasance and nonfeasance, on the part of the officials of the Trust. In sequel, the responsibility for the (supra) acquiesced commission of torts' rather was required to be encumbered upon the official concerned.

20. Furthermore, the effect of evident deposit of earnest money, thus by the allottees concerned, as was made pursuant to the subject

advertisement, besides the evident fact of registration numbers becoming assigned to them, was not required to be untenably annulled nor was required to be untenably discarded as has been done in the instant case.

21. Emphatically, also the effect of the (supra), was not required to be encumbered upon the allottees concerned, as through the (supra) deposits being evidently made by them, thereby an effectively concluded contract came into existence, whereupon the promisor concerned, i.e. the Trust concerned, but become obligated to endow the benefits thereof rather to the allottees concerned. Necessarily, the said inference becomes premised, on the touchstone, that thereby but as a natural corollary thereto, rather the equitable principles of promissory estoppel, thus were required to be favourably endowed vis-a-vis the promisee i.e. the allottees concerned, rather than the said becoming snatched through the passing of the impugned order.

22. If the apposite responsibility is not fixed upon the custodian of the records, thereupon he would go scot-free, besides thereby if the impugned annexure, rather becomes validated, thereupon the rights acquired by the allottees/ promisees but would become ill scuttled, rather merely on account of commission of torts of loss of records, but at the instance of the custodian concerned.

23. The present petitioner is a promisee as unfolded by the uncontested tendering of the earnest money, besides also in terms of the photocopy of the registration number, as became assigned to him. Conspicuously since thereunders, thus a promise become meted to the promisee i.e. the present petitioner, thereby the present petitioner, as stated (supra) was required to be endowed the benefit of the equitable principles of

promissory estoppel and of legitimate expectation. Therefore, the said endowments cannot be permitted to be scuttled, merely on account of loss of original records and that too when the apposite responsibility remains unencumbered on the custodian concerned.

24. Since the photocopy(ies) (supra) remain unproven to be fictitious, thereupon they are required to be assigned sanctity As such, in terms of the uncontested photocopies of the original records, as became placed on record, reiterately therebys the benefit of the principle of promissory estoppel and of legitimate expectation, thus were required to become endowed to the present petitioner.

25. Resultantly to do complete justice, especially when the apposite receipt (Annexure P-1) reveals, that the petitioner deposited the tender/ earnest money(ies). Therefore, the success achieved by the allottees in the draw of lots, but cannot be withdrawn from the allottees concerned, nor therebys, thus the pursuant thereto allotments and the delivery(ies) of physical possession of the subject plots' to the allottees, but also cannot be snatched from them.

26. Preeminently since no evidence to bely the truth of the photocopies of records (Annexures P-1 to P-3) becomes adduced on record, therebys they acquire an aura of conclusivity. The contents of Annexure P-3 becomes extracted hereinafter.

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27. Therefore, in terms of the resolution No. 157 dated 30.03.2012 passed by the Trust, especially when the condition set forth therein, has been for (supra) stated reasons, thus satisfied by the petitioner. As such, the order

rejecting the resolution passed by the Trust concerned, thus naturally is ridden with a vice of non application of mind. Moreover, it ill forestalls the favourable application vis-a-vis the present petitioner vis-a-vis the principle of promissory estoppel, principle whereof for all (supra) stated reasons but is purveyable vis-a-vis the present petitioner.

28. It is reiteratedly stated, that since the documents (supra), do candidly reveal, the filing of applications by the petitioner and also the tendering of requisite earnest money, thereupons unless the department of Local body concerned, adduced cogent proof qua the (supra) being false or fictitious, proof whereof is however grossly amiss. Resultantly, therebys the department of Local Body(ies) concerned, was not empowered to reject the passing of the apposite resolution whereby the subject plot was ordered to be restored to the present petitioner, especially when as stated (supra), (Annexure P-12) was rendered during the pendency of the writ petition bearing No.CWP-15791-2015. Moreover also when then a conscious decision was taken by the department, to make a direction upon the Trust, to re-consider the subject controversy, which in fact was so done, wherethrough a recommendation in favour of the petitioner became passed by the Trust concerned, therebys the reviewing thereof by passing the impugned annexure, but is untenable.

29. Even otherwise, when the Trust is a body corporate and has an independent zone of functionality, therebys per se its resolution, thus was not required to be interfered with nor any approval thereto was required from the department of Local Body concerned. More so, when the subject advertisement was issued at the instance of the Trust and was not issued at the instance of the department of Local Body concerned, therebys the power

to rescind the subject allotment did solitarily vest in the Trust concerned, than in the department of Local Body(ies) concerned.

30. In sequel, there is merit in the instant writ petition and, the same is allowed. Accordingly, the impugned orders dated 20.01.2016 (Annexure P-17) as well as the impugned order dated 06.12.2012 (Annexure P-10) are quashed and set aside. Further the respondent(s) are directed to re-allot the subject plot in favour of the petitioner within a period of three months hereafter along with physical possession thereof being also delivered to the present petitioner. Now for the prima facie commissions' of torts' of malfeasance, nonfeasance and misfeasance, thus on the part of the Trust and its officials, thereupon, the instant writ petition, is also allowed, with exemplary compensation comprised in a sum of Rs.2 lacs, becoming encumbered upon the respondent concerned. The same shall be forthwith released to the present petitioner.

(SURESHWAR THAKUR)
JUDGE

21.04.2025

Ithlesh

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No

(VIKAS SURI)
JUDGE