# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA-826-2000 (O&M)**
**Reserved on :-15.01.2026**
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Mrs. Santosh Garg

… Appellant

Versus

Haryana State Industrial Development Corporation Ltd. and Another

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Argued by :-

Mr. Ved Parkash Garg, Advocate with
Mr. Vivek Gupta, Advocate, and
Ms. Kiran Verma, Legal Aid Counsel
for the appellant.

Mr. Ankur Mittal, Senior Advocate with
Ms. Kushaldeep Kaur, Advocate;
Mr. Shivendra Swaroop, Advocate and
Ms. Dharvi Dadhwal, Advocate
for the respondents.

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**VIRINDER AGGARWAL, J.**

1. The appellants/plaintiffs, aggrieved by the judgment and decree dated 09.10.1999 of the learned Additional District Judge, Chandigarh, which reversed the well-reasoned judgment and decree dated 20.03.1998 passed by the learned Sub-Judge, Ist Class, Chandigarh, respectfully invoke the appellate jurisdiction of this Court through the present Regular Second Appeal (for short "RSA"). The appellant seek restoration of the decree rightly granted by the learned Trial Court and appropriate redress for the substantial miscarriage of justice occasioned thereby. It is respectfully

submitted that the impugned judgment and decree are vitiated by manifest perversity, serious errors of law, and a fundamentally flawed appreciation of the evidentiary record, resulting in grave injustice. The appellant therefore pray that this Court set aside the impugned judgment and decree and reinstate the lawful and well-reasoned decree of the learned Trial Court.

1.1. Suit for a declaratory decree that the communication bearing No. HSIDC/DEO/92/433 dated 18.12.1992, whereby the defendants purported to withdraw the letter of intent pertaining to Industrial Shed No. 81, Type 'A', situated in Udyog Vihar, Phase-V, Industrial Area, Gurgaon, is void, ultra vires, arbitrary, discriminatory, violative of the governing allotment rules, contrary to the contractual stipulations and advertisement conditions, and in derogation of the Constitution of India as well as the foundational principles of natural justice, equity, and fair play; and consequently, for a mandatory injunction directing the defendants to forthwith allot the aforesaid Industrial Shed No. 81, Type 'A', or in the alternative, to allot any other Industrial Shed of Type 'A' having identical specifications within the said Industrial Area, Gurgaon, in accordance with law, under Order XII Rule 1 CPC.

2. The sequence of events antecedent to, and culminating in, the present appeal may be succinctly set out as under -

> *"The genesis of the present lis emanates from the arbitrary deprivation of the plaintiff's legitimate entitlement to an industrial allotment, despite his demonstrable compliance with all stipulated conditions and his bona fide pursuit of entrepreneurial advancement.*
>
> *The brief facts, shorn of unnecessary detail, are that the plaintiff is an emerging entrepreneur striving to generate employment and contribute to the national economy. He has established a small-scale industrial unit*

*for laser printing at Delhi, with a proposed integration of an offset-printing facility at Gurgaon. On 14.12.1991, an advertisement was published in The Hindustan Times whereby Defendant No.1 invited applications from the general public, including women entrepreneurs, for allotment of built-up industrial sheds of various sizes in Udyog Vihar, Phase-V, Industrial Area, Gurgaon, Haryana. The advertisement contemplated preferential consideration for ex-servicemen, SC/ST candidates, and women entrepreneurs, and provided special reservation for NRIs, projects with foreign equity participation, and 100% EOUs. It further prescribed the payment structure as 10% of the price along with the application, 15% within 35 days of allotment, and the remaining 75% at the stage of possession. Significantly, neither the advertisement nor the governing allotment rules conferred any authority upon the defendants to unilaterally alter these terms or to prescribe a procedure for cancellation of an allotted industrial shed.*

*In faithful adherence to the advertisement and its payment terms, the plaintiff applied to Defendant No.1 vide Application No.1292 dated 25.01.1992, accompanied by a demand draft of Rs.20,400/- drawn on Punjab State Co-operative Bank, Chandigarh. Finding the plaintiff to be a suitable candidate, the defendants issued a Letter of Intent (LOI) dated 27.10.1992 offering Industrial Shed No. 81, Type 'A', in Udyog Vihar Phase-V. However, even prior to issuing the formal allotment letter, the defendants inexplicably demanded an additional sum of Rs.30,600/- as 15% of the total cost, thereby unilaterally modifying the prescribed payment framework. Clause 3 of the LOI, requiring remittance of the said 15% within 35 days, exemplifies this departure from the advertised terms. Despite repeated communications addressed to the defendants on 26.06.1993, 10.08.1993, 18.11.1994, and 30.12.1994, the plaintiff's grievance remained unredressed. The defendants, while not having cancelled any other allotment or letter of intent for non-payment within* *the stipulated period, arbitrarily withdrew the plaintiff's LOI through communication dated 18.12.1992. Such action is ex facie illegal, discriminatory, arbitrary, unconstitutional, and violative of the foundational principles of natural justice, equity, and fair play, thereby warranting judicial interference. Hence, the present suit."*

3. Upon notice of the suit and service of summons, the defendants entered appearance and furnished a joint written statement, wherein they assailed the maintainability of the suit and controverted the plaintiff's averments." :-

*"At the threshold, the defendants invoke the doctrine of estoppel, asserting that the plaintiff, by her own conduct, stands precluded from instituting the present proceedings, having admittedly failed to comply with the payment schedule stipulated in the Letter of Intent. On merits, while conceding that the plaintiff is a women entrepreneur and acknowledging issuance of the advertisement, the defendants contend that such advertisement constituted merely an invitation to offer, imposing no obligation to enumerate every term governing allotment. They further aver that the allegation regarding absence of a cancellation procedure is misconceived, as the defendants were fully vested with authority to regulate allotment and to act strictly in accordance with the terms of the LOI and the governing industrial allotment norms.*

*The defendants admit the plaintiff's deposit of the initial amount and issuance of the LOI dated 27.10.1992 concerning Industrial Shed No. 81, Type 'A', Udyog Vihar, Phase-V, Gurgaon, but assert that the Screening Committee expressly required remittance of the full 15% cost component within 15 days. They allege that the plaintiff remitted only a partial amount, thereby committing a material breach. The withdrawal of the LOI, they maintain, was a direct consequence of such non-compliance and was effected strictly in consonance with the contractual framework.*

*They further plead that the part-payment received from the plaintiff was duly returned. All other allegations are unequivocally denied, and the defendants seek dismissal of the suit as wholly untenable."*

4. Upon commencement of the adversarial pleadings, the plaintiff submitted a replication, unequivocally traversing the defendants' averments and reiterating the assertions contained in the plaint. Thereafter, upon a meticulous and comprehensive examination of the pleadings, documents, and rival submissions, the Court deemed it appropriate to crystallize the matters in controversy by framing specific issues for adjudication, so as to facilitate a precise, orderly, and judicious determination of the respective rights, obligations, and defenses of the parties, which are as follows:-

> 1. *Whether the orders dated 18.12.1992 are void, illegal against the terms and conditions of the contract? OPP.*
> 2. *Whether the plaintiff is entitled declaration prayed for?OPP*
> 3. *Whether the plaintiff is entitled to mandatory injunction as prayed for? OPD.*
> 4 *Whether the suit is barred by limitation? OPD.*
> 5. *Relief.*

5. Both parties were granted an unfettered and equitable opportunity to lead evidence in substantiation of their respective claims and defenses. Upon culmination of the evidentiary proceedings and after hearing the learned counsel appearing for both sides, the learned Trial Court proceeded to pronounce judgment, ultimately decreeing the suit and recording the following observations:-

"*In view of the findings returned on the foregoing issues, the suit of the plaintiff is decreed with costs. The orders bearing No. HSIDC/DEO/02/433 dated 18.12.1992 are hereby declared illegal, null and void, being violative of the principles of natural justice and contrary* *to the terms and conditions governing the allotment. The defendants are directed to allot to the plaintiff an industrial shed of the same type, size, and specifications, preferably in the same vicinity of Udyog Vihar, Phase-V, Industrial Area, Gurgaon (Haryana), within a period of three months.*"

6. Assailing the judgment and decree so rendered, the respondents/appellants carried the matter in appeal before the learned First Appellate Court, which, upon comprehensive re-evaluation of the record, allowed the appeal and observed as under:-

> *"In view of the foregoing discussion, the findings of the learned Trial Court on the issues framed are held to be erroneous and are accordingly reversed. Consequently, the appeal is allowed and the impugned judgment and decree are set aside. In the facts and circumstances of the case, the parties are left to bear their own costs."*

6.1. Calling into question the findings rendered by the learned First Appellate Court, the appellant/plaintiff instituted the present appeal, which, upon admission, was followed by issuance of notices; the respondents thereafter entered appearance through counsel and opposed the appeal, and the entire record of the courts below stands duly available on the DMS for comprehensive scrutiny and informed adjudication.

7. I have heard learned counsel for the parties at considerable length and have given anxious and thoughtful consideration to their submissions, examined in the context of the pleadings, the evidentiary material brought on record, and the findings concurrently and divergently returned by the courts below. The entire record has been scrutinized with the requisite degree of judicial circumspection to assess '*whether the impugned judgment and decree are vitiated by any error of law, perversity, or infirmity warranting the exercise of appellate correction by this Court*?"

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellants has, with utmost respect, strenuously contended that the cancellation of the Letter of Intent was effected without affording the appellant an opportunity of hearing, thereby violating the fundamental principles of natural justice. It is further submitted that time was not stipulated as the essence of the contract and that the agreement itself provides for the extension of time. Learned counsel has challenged reliance placed by the learned Appellate Court upon ***Construal Overseas v. HSIDC, CWP-16327-1997***, contending that the Court failed to consider the binding precedents of the Hon'ble Apex Court in *W**elspun Speciality v. ONGC, 20121 SCC Online SC 1053***, as well as the decision of the Delhi High Court in ***Government of NCT Delhi v. Prakash Reflective Devices Pvt. Ltd., OMP No.913 of 2011***.

9.1. It is further submitted that the respondent authority was duty-bound to provide a prior opportunity to the entrepreneur before withdrawing the LOI. Learned Appellate Court has also erred in holding that the provisions of the Punjab Urban Development and Regulations Act, 1964, are inapplicable. A minor delay in payment, it is argued, does not go to the root of the agreement, and the term "languish" employed in paragraph 9 of the LOI is inherently ambiguous. The appellant *bona fide* believed that she could discharge the balance 15% of the payment, as well as 75% of the cost of the shed, upon arranging the requisite finances from financial institutions. The delay in performance was limited to merely 25 days, which cannot be construed as fundamentally undermining the contractual obligations. In light of these submissions, it is urged that the appeal be allowed and the judgment and decree of the learned First Appellate Court be set aside.

10. Learned counsel for the respondent has respectfully contended that the findings recorded by the Courts below are unimpeachable, and suffer from neither illegality nor infirmity. It is submitted that the learned First Appellate Court has correctly held that the parties are bound by the express terms of the Letter of Intent, and, in such circumstances, there arises no obligation to adhere to the principles of natural justice. Once the parties voluntarily enter into a contractual arrangement, the enforcement of its terms is guided by the contract itself, and no additional procedural safeguards are necessitated beyond what has been expressly stipulated therein.

11. At the heart of the present controversy lies the most pivotal document, namely Ex.P7, the Letter of Intent, the terms and conditions of which form the foundation of the contractual relationship between the parties. For clarity and ready reference, the material provisions contained therein are reproduced as under:-

> *"1. This has reference to your application for allotment of an Industrial plot in Investate Bawal for setting up a unit to manufacture Readymade Garments.*

2. *We are pleased to inform you that it has been decided to offer you an Industrial plot measuring 4000 Sq.Mtrs. in Investate, Bawal. The tentative rate of the plot will be Rs.225/- pam. A sum of Rs.90,000/- towards 10% tentative cost of the plot has already been received from you.*

3. *You are requested to remit 15% 1.e. Rs.1,35,000/- cost of the plot and convey your option for implementing the project either out of your own resources or by availing term loan from a financial institution within 35 days from the date of issue of LOI.*

4. *For self-financed projects, adequate proof regarding availability of funds to implement the project will have to be given within 3 months from the date of issue of LOI.*

5. *In case, you propose to raise loan from HFC/Banks/All India Financial Institution, you will be required to get the term loan disbursed against the cost of land from the financial institution within a period of 9 months from the date of LOI. In case, you are not able to get the term loan disbursed within 9 months from the date of issue of LOI, an extension for a period of 3 months can be given after receipt of a nominal fee Rs.l/- per sq. mtr. per month,*

6. *You will be required to deposit balance 75% cost of plot with HSIDC at the time of disbursement of loan by the financial institution. On receipt of full payment of plot HSIDC will issue a Regular Letter of Allotment and will hand over possession of plot after complet.ing necessary formalitios,*

7. *For self-financing projects, the balance 75% cost of plot shall be payable within a period of 3 months from the date of issue of LOI. No extension beyond the stipulated period of 3 months shall be allowed for self financing projects.*

*8. In the event of non-complet of formalities within the specified period, the 101 shall stand withdrawn/ cancelled and the amount deposited by you will be refunded after deducting 10%.*

*9. You will not be allowed to transfer this plot. In case, you lose interest because of any reason in implementation of the project, the plot may be surrendered back to the Corporation as per the standard terms and conditions of the allotment.*

*10. You will have to abide by all terms and conditions of the agreement to be executed between the parties. In case of any violation of the provisions of the LOI, or the agreement, the plot would be liable to be resumed."*

12. The learned First Appellate Court, after meticulous consideration of the evidence and submissions, has articulated its findings as follows:-

*"14. Plantation Corporation of Kerala Ltd. Kottayam AIR 1983 page 1 and Bomathinayagam Pillai & Ors. Vs. Palaniswanu Nadar AIR 1967 SC 54. Refuting his argument the learned counsel for the appellants contended that the time was the essence contract as is clear from the terms and conditions the LOI. In support of his contention he placed reliance on the Division Bench judgment our own Hon ble High Court passed in CWP No. 16329 of 1997 titled as Century Overseas Vs. The Haryana State Industrial Development Corpn. etc.*

*in this that the After considering the arguments of both the sides regard, I am of the opinion of the Id. counsel for the appellants has a weight. The Division Bench judgment of contention Own which some was our Hon'ble High Court in CWP No. 16329 of 1997 between the Haryana State Industrial Development Corpn. i.e. the appellant no. 12 and allottee. In that case also the similar LOI as has been issued in the case in hand. was issued and the Hon'ble*

*High Court has observed that the was the essence of the contract. On page the decision. the Hon'ble High Court time OT observed as under :-*

*"----The basic objective of establishing the respondent-corporation industrialisation is to promote in the State of Haryana.*

*The setting up of projects by entrepreneurs within the given time frame is the essence of allotment of industrial plots/sheds. If an entrepreneur project fails to pay the price of the his/its plot or satisfy the corporation that is financially viable and he/it has resources to implement the project within the stipulated period. the purpose of rapid industrialization is frustrated. At times persons without means vide of securing allotment of industrial plots and then try to retain possession on some or other pretexts. In many cases. Such Persons have been indulging in speculative transactions. This appears to be the reason why the corporation has taken those who steps to make allotment only to are financially sound and are capable of implementation the project within the specified time frame. object This being the of the the underlying the policy corporation, the time limit specified in various clauses of LOI will have to be treated mandatory. This conclusion of ours is fortified by the fact that the corporation has also prescribed penal consequences of the formalities specified in the LOI.*

*The aforesaid authority 15 squarely to applicable in the case in hand and the time specified in the various clauses of LOI will be treated as mandatory. So, in view the respondent cannot be heard to say limit have of this that the time was not the essence of the contract between the parties"*

13. Learned counsel for the appellant has respectfully contended that time was not stipulated as the essence of the contract and that a careful construction of the terms and conditions of the agreement is required to

determine whether time assumes such character. In support of this submission, reliance has been placed upon the judicial pronouncement of the Hon'ble Supreme Court in ***Welspun Speciality v. ONGC, 20121 SCC Online SC 1053***, as well as the decision of the ***Delhi High Court in Government of NCT Delhi v. Prakash Reflective Devices Pvt. Ltd. (supra)***, both of which elucidate the principles governing the determination of whether time is of the essence in contractual obligations.

14. At the threshold, it is imperative to recognize that while the terms and conditions of a contract are relevant in determining whether time is of the essence, such inquiry presupposes the existence of a valid contract between the parties. In the present case, the respondents–defendant authority issued a public advertisement inviting applications, following which the appellant submitted an application. After scrutinizing the applications of all prospective applicants, the authority issued the Letter of Intent (Ex.P7) to the appellant, stipulating the payment of 15% of the allotment price within thirty-five days. This constituted an offer by the authority, which could only ripen into a valid contract upon the appellant's compliance with the conditions specified within the prescribed period.

14.1. In particular, condition No.3 of the LOI required the appellant to remit 15% of the cost of the shed and to communicate her intention regarding the implementation of the project either from her own resources or by availing a term loan from a financial institution within thirty-five days of issuance. Condition 8 further clarified that, in the event of non-compliance within the stipulated period, the LOI would stand withdrawn, with any amounts deposited refundable after deducting 10%. These provisions make it unmistakably clear that adherence to the stipulated time-frame was an essential element of the contract.

14.2. The appellant did not accept the offer in the prescribed manner; instead, she submitted a counter-offer (Ex.P8), paying only 7.5% of the cost of the shed and proposing to deposit the remaining 7.5% after arranging finance. This counter-offer was rejected, and the authority returned the partial payment, confirming that the LOI stood withdrawn. The three-month extension referred to in Clause-V of the LOI pertained solely to the implementation of the project, which could only arise after the formation of a valid contract upon timely acceptance of the offer an event that did not occur. Consequently, time was indeed of the essence, and the appellant failed to perform her part necessary for contract formation.

14.3. In these circumstances, no show-cause notice or opportunity of hearing was required. The cases relied upon by the appellant ***Dulari Exports Pvt. Ltd. v. Haryana State Industrial Development Corporation Ltd.*****, CWP-2611-1997;** ***Century Overseas***; and ***Arvind K. Single v. Haryana State Corporation Limited, CWP-15182-1996*** are distinguishable on facts, as in each instance the initial 15% payment was timely made, thereby giving rise to a valid contract and triggering the requirement for a show-cause notice.

14.4. This Court, in ***Anil Kumar Raparia v. State of Haryana and Others, Neutral Citation No. 2024:PHHC:142023-DB***, has emphasized that, in such allotment schemes, the cut-off dates must be scrupulously adhered to, failure of which could create a chaotic situation. While personal emergencies may affect individual applicants, the automatic forfeiture envisaged in the LOI is consistent with the express terms of the contract and cannot be deemed illegal, arbitrary, or harsh. It is further settled that the terms of such a brochure or prospectus are binding on all parties, and actions taken in accordance with these terms are legally valid and enforceable.

15. For authoritative guidance, reference may be made to the decision of this Court in ***Sunil v. State of Haryana and Others, Neutral Citation No.: 2024:PHHC:1188087-DB***, wherein the Court observed as follows:-

> *"11. In that judgment due to some technical 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."*

16. For authoritative guidance, reference may be made to the decision of this Court in ***Sunil v. State of Haryana and Others*****, Neutral Citation No.: 2024:PHHC:1188087-DB**, wherein the Court observed as follows:-

> *"It was submitted that in the present case, no such procedure had been followed and the plots had been cancelled/resumed only on the ground of non-payment of dues without following the due procedure. It was submitted that under the circumstances, the action of the respondents is grossly violative of the principles of natural justice and accordingly deserves to be set aside. It was also submitted that as per Clause 6.3 (c) of EMP-2015, there were ample powers with the respondents to allow the appeal and give further time for payment which also was illegally declined."*

17. In conclusion, it is manifest that the appellant–plaintiff failed to comply with the express terms of the Letter of Intent (Ex.P7) by not remitting the requisite initial amount of 15% within the stipulated period of 35 (thirty five) days, a condition precedent to the formation of a valid contract. In such circumstances, the withdrawal of the Letter of Intent was automatic under Clause-VIII of Ex.P7, and no prior opportunity of hearing was necessitated, as time was unequivocally of the essence of the contract. Accordingly, there exists no illegality, infirmity, or error in the findings recorded by the learned First Appellate Court. The contention advanced by the appellant lacks any merit and is, therefore, hereby dismissed.

18. In the final analysis, having adjudicated the principal appeal on its merits, it is manifest that the matter stands conclusively disposed of. Consequent thereto, all ancillary, interlocutory, or other pending applications, if any, which may subsist on record, shall, by necessary implication, also stand disposed of, and no separate or independent orders are called for in respect thereof.

**( VIRINDER AGGARWAL)**
**JUDGE**

**29.01.2026**
**Gaurav Sorot**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No