

LPA-1986-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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LPA-1986-2019 (O&M)
Date of Decision :16.02.2026

Chandigarh Housing Board

...Appellant

Versus

Suman Bala and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Deepali Puri, Advocate for the appellant.

Mr. J.R. Syal, Advocate for respondent No.1.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-4525-LPA-2019

Present application has been filed for condonation of delay of 78 days in filing the present appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Delay of 78days in filing the present appeal is condoned.

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In the present appeal, the challenge is to the impugned order dated 25.07.2019 passed by the learned Single Judge of this Court in CWP-26784-2018 whereby, a direction has been given by the learned Single Judge of this Court that one of the dwelling unit, which was to be allotted under sub-scheme 'B' to the successful bidders but has been surrendered, be

allotted to the respondent No.1 herein.

2. It may be noticed that a scheme was floated by the Chandigarh Housing Board being Scheme No.200 wherein, two bed room flats under the Self Financing House Scheme, 2016 in Sector 51, Chandigarh were advertised. As per sub-scheme 'B', 50 dwelling units on the 1st floor, were to be allotted to the applicant who has offered highest bid beyond the reserved price fixed. It was further stipulated in the scheme that in case, the number of bidders seeking allotment to such flats are less than 50, the remaining dwelling units out of the 50 for which no applicant had made a bid, will be transferred to sub-scheme 'A' wherein, the dwelling units were to be allotted on the basis of the draw of lots. As per the scheme, particularly condition IV, in case there are more than 50 persons who have offered a bid for allotment of dwelling unit under sub-scheme 'B', such applicant in case remains successful will be treated as an applicant under sub-scheme 'A' for allotment of the dwelling unit by way of draw of lots.

3. The respondent No.1 applied for allotment of dwelling unit under sub-scheme 'B' and had quoted her price for the dwelling unit but ultimately it was found that the price quoted by her was not a par with the first highest 50 bidders, who were allotted the dwelling units under sub-scheme 'B'.

4. As per the scheme of allotment, the application of the respondent No.1 for grant of dwelling unit under sub-scheme-B was converted to sub-scheme 'A' for allotment on the basis of the draw of lots and in the said draw of lots, the respondent became successful and was allotted a dwelling unit.

5. The successful applicants/bidders who had offered a bid for allotment of dwelling units under sub-scheme 'B', out of the total 50, certain dwelling units were surrendered by some of the bidders.

6. Against the said surrendered dwelling units, the applicant/respondent raised a claim that since she was falling at serial No.51 in list of bidders who were to be allotted dwelling unit under scheme 'B' after surrender of same at hands of some successful bidders, she be granted allotment of such surrendered unit but the same was not accepted by the appellant-Chandigarh Housing Board which led to filing of the writ petition by the respondent No.1.

7. The learned Single Judge of this Court vide impugned order dated 25.07.2019 allowed the petition on the ground that once the respondent was next in list of top bidders, offering higher amount for the dwelling unit under scheme 'B', which has become vacant, the respondent should have been allotted the same.

8. The said finding is under challenge in the present appeal.

9. Learned counsel for the appellant submits that once initially the claim of the respondent for allotment of one of the 50 dwelling units under sub-scheme 'B' was considered and she did not fall within the list of first 50 highest bidders, the allotment of such dwelling units was granted to the first 50 highest bidders, which rendered the claim of the respondent as extinguished qua allotment of any such dwelling unit under sub-scheme 'B'. Learned counsel for the appellant further submits that once, on being unsuccessful in getting a dwelling unit under the sub-scheme 'B', the claim of the respondent for allotment of dwelling unit was transferred to sub-

scheme 'A' where she was successful and same was accepted by her now after the said stage, she cannot turn around to claim that the said application for grant of allotment of dwelling unit which was already transferred to sub-scheme 'A' for allotment under said scheme and was successful, now should be transferred back to sub-scheme 'B' which was impermissible and incorrect as no such provision existed in the scheme of allotment.

10. Learned counsel for the respondent submits that though the claim of the respondent for allotment of 50 dwelling units under sub-scheme 'B' was considered and rejected on account of respondent not being in the top 50 bidders but once, certain dwelling units in said scheme became available though after the allotment of a dwelling unit to the respondent under sub-scheme 'A', the appellant was liable to change the allotment so done in favour of respondent so as to allot a dwelling unit under sub-scheme 'B' which dwelling unit had been surrendered by the successful bidder hence, the direction given by the learned Single Judge of this Court is perfectly valid and illegal.

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

12. The first question which asked from the learned counsel for the appellants is as to whether the dwelling units which were surrendered by the successful bidders who were allotted the same under sub-scheme 'B' are available as of now or not, to which learned counsel for the appellants submits that the same had already been auctioned in the subsequent time period and no such dwelling unit exists as of now in said sub-scheme 'B'.

Though, the said dwelling units have already been auctioned after passing of



the impugned judgment by the learned Single Judge of this Court but such subsequent allottees of the such dwelling units are not before this Court.

13. Further, it may be noticed that as per the scheme of allotment, in case of allotment of dwelling unit under sub-scheme 'B', the number of bidders is less than the dwelling units i.e. 50, the remaining units were to be transferred to sub-scheme 'A'. This shows that as per the condition stipulated in Housing Board Scheme 200 the dwelling units against which no bid had been made, could not be brought back to the sub-scheme 'B' after the transfer. In the present case, the similar view has to be taken that once an application of the respondent for allotment of dwelling unit under sub-scheme 'B' against the 50 dwelling units was considered but she did not find place within the first 50 highest bidder at the relevant time, her application for allotment was transferred to sub-scheme 'A' for purpose of allotment of dwelling unit wherein she was found successful to be allotted dwelling unit which dwelling unit has already been allotted to the respondent as is possessed by her. Once, an application for the grant of allotment of dwelling unit has been transferred from sub-scheme 'B' to sub-scheme 'A' and there is no provision in the scheme to bring back such application to sub-scheme 'B' from sub-scheme 'A' for purpose of allotment in case any dwelling unit is surrendered hence, such claim cannot be entertained. It should be noted that such surrender of dwelling unit has to be treated to be shifted to a dwelling unit under sub-scheme 'A' only wherein, the application of the applicant-respondent has already been considered and found successful.

14. Further, once, the change of the application for allotment from sub-scheme 'B' to sub-scheme 'A' was accepted by respondent, where she

competed and remained successful by way of draw of lots in the allotment of a dwelling unit under scheme 'A', now she cannot turn around to say that any dwelling unit under sub-scheme 'B' which was surrendered by successful bidders should be given to her. It should be noted that no such provision in the scheme has been shown to this Court which allows to raise such claim and even said aspect has escaped the notice of the learned Single Judge of this Court. Once, the benefit of dwelling unit has already been accepted by the respondent under sub-scheme 'A', now claiming that her application should be transferred back to sub-scheme 'B' for allotment of a dwelling unit can not be accepted.

15. Keeping in view the totality of the facts and circumstances of the present case, the impugned order dated 25.07.2019 passed by the learned Single Judge of this Court is perverse to the terms and condition of the scheme so as to allot a dwelling unit under sub-scheme 'B' to the applicant-respondent especially after her application for allotment was already transferred to sub-scheme 'A' wherein she was found not only eligible but successful for the allotment of a dwelling unit.

16. Further, as of now, there is no dwelling unit which is available under sub-scheme 'B' as the surrendered dwelling units have already been auctioned by the Chandigarh Housing Board and the auction-purchaser are not before this Court and in case, any benefit is to be given to the respondent the same will be at the cost of one of the auction purchaser, whose allotment cannot be disturbed as no order can be passed against a person who is not a party to the proceedings.

17. Keeping in view the totality of the facts and circumstances of

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the present case, the present appeal is allowed. Impugned order dated 25.07.2019 passed by the learned Single Judge of this Court is set aside.

18. A civil miscellaneous application pending if any is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

February 16, 2026

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Whether speaking/reasoned : Yes
Whether reportable : No