

Form

The Chief Administrator,
Haryana Urban Development Authority,
C-3, Sector-6, Panchkula.

To

All the Zonal Administrators, HUDA in the State.

Memo No.

Dated:

Subject:- Guidelines for the Appellate and Revisional Authorities to decide the Appeals/ Revisions u/s 17 of the HUDA Act, 1977- CWP No. 19503 of 2010 titled as Suresh Chand Vs State of Haryana and others.

The Hon'ble High Court in the above mentioned case directed on 04.12.2012 that the Haryana Urban Development Authority (HUDA) should evolve guidelines for the Appellate and Revisional Authorities to decide the appeals/revisions. In compliance thereof, the matter has been considered in depth in the Review Meeting held on 15.12.2012 under the Chairmanship of Principal Secretary, Town & Country Planning Department and it has been decided that henceforth the Appellate and Revisional Authorities shall keep in mind the following guidelines while deciding the appeals/ revisions as per the provisions of HUDA Act, 1977:-

1. The Authorities shall not give relief to the allottees on arbitrary grounds by using expressions like financial hardship, unavoidable circumstances, routine health problems, illness of relatives, long period of absence from the Country/ place of residence, ignorance of payment schedule, technical infirmities in the letter of allotment like condition of payment of interest in hand written form instead of typed form etc. However, in the following circumstances, the Authorities may consider providing relief:-

- i.) If, allottees goes in coma and remains under coma for the period when the payments were due and recovers subsequently.
- ii.) If, allottee has to incur major financial expenditure on treatment of serious diseases like cancer, major surgeries, accident traumas rendering him unable to discharge the liabilities of such due payments. In such cases, the allottee will have to submit complete proof of his treatment duly authenticated.

The above parameters will also apply in case the allottee's spouse or children suffers from such kind of eventualities.

2. Non development of site/ area of the sector or providing other amenities will not constitute ground for non payment of due instalments and will not be considered as such while deciding the cases.

3. In case the appeal/ revision has been filed by the GPA/SPA purchaser then it should be ascertained whether the GPA/SPA was executed before or after the passing of resumption order. If the GPA/SPA has been executed after the passing of the resumption order, such GPA/SPA holder will be considered as one having no locus standi. In case the allottee is very old or infirm person and has executed General Power of Attorney (GPA) either before resumption or during the pendency of appeal, the same shall be considered if the same is executed in blood relation for carrying on day to day proceedings with respect to the plot on behalf of the allottee and does not amount to sale.

4. In cases where the allottee has failed to pay price of the plot after depositing 25% initial amount till the schedule of payment is over, the authorities shall not provide any relief in routine manner. Such cases will be considered only under extremely justifiable circumstances for which allottee needs to give documentary proof of failures in making due payment.

5. **Maintainability:-**

The Authorities shall give a definite finding in the order in this regard. For example, an appeal U/s 17 of the HUDA Act against eviction order passed by the Estate Officers u/s 18 of the HUDA Act, 1977 is not maintainable. Similarly, an appeal does not lie against an order of cancellation of offer of allotment of plot due to non deposit of 15% amount within the given 30 days from the date of offer of allotment. The Authorities also shall not entertain appeals/ revisions for restoration of sites in case of surrender of plot.

6. **Question of delay:-**

The Authorities shall not condone the delay in a routine manner. The appellant must explain the delay to the satisfaction of the Authorities, failing which the Authorities shall dismiss the appeal/ revision on the ground of delay.

7. The Authorities shall keep in mind the principles of res-judicata and res-subjudice while deciding the appeals/ revisions. It shall also be kept in mind that the appellant has not resorted to forum hopping.

8. The Authorities shall keep in mind the law laid down by the Hon'ble High Court and Hon'ble Apex Court while deciding the appeals/ revisions.

9. The order of restoration must be well reasoned explaining in detail the reasons of acceptance of appeal/revision.

These instructions must be complied with meticulously with immediate effect.

Sd/-
Chief Administrator,
HUDA, Panchkula

Dated: 07.01.2013
Panchkula

Endst No. 218-241

Dated: - 10-1-2013

A copy is forwarded to the following for information and necessary action.

1. Administrator, HUDA H.Q., Panchkula.
2. The Chief Controller of Finance, HUDA Panchkula.
3. The Secretary, HUDA Panchkula.
4. All the Estate Officers, HUDA in the State.
5. The General Manager, IT, HUDA Panchkula.
6. The Deputy ESA, HUDA Panchkula.
7. PS/PSTCP, New Haryana Civil Secretariat, Chandigarh for the information of PSTCP.

Assistant District Attorney
For Chief Administrator,
HUDA, Panchkula