

CM_4016-CWP_2022_IN_CWP_28339_2017 07-May-2025 (at) 2:26PM

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM_____ of 2022
In CWP- 2839 OF 2017

AMENDED MEMO OF PARTIES

Lekh Raj Arora, aged 73 years son of Sh. DevDitta Mal, resident of House No. 682, Sector 10, Urban Estate, Panchkula, District Panchkula.

- i. Sh. Bharat Bhushan Arora Son of Sh. Lekh Raj Arora House No 682, Sector-10, Panchkula, Haryana (Aadhar Card No. 460888278064)
- ii. Kanta Kumari Arora W/o Sh. Lekh Raj Arora House No. 682, Sector-10, Panchkula, Haryana (Aadhar Card No. 919606850929)
- iii. Salini Arora Daughter of Sh. Lekh Raj Arora now W/o Sushil Kumar House No. 727, Preet Colony, Zirakpur, SAS Nagar, Mohali Punjab (Aadhar Card No. 919606850929)

....Petitioner

Versus

1. State of Haryana through its Secretary, Department of Country and Town Planning, Haryana Civil Secretariat, Sector 17, Chandigarh.
2. Chief Administrator, HUDA, C-3, HUDA Bhawan, Sector- 6, Panchkula.
3. Estate Officer, HUDA, Sector 12, Urban Estate, Karnal, District Karnal.

....Respondents

CHANDIGARH
DATED: 14.03.2022

(VIKRAM SINGH & RAKESH GUPTA)
P-490/93 ADVOCATES
COUNSEL FOR THE APPLICANTS/APPELLANT

CIVIL WRIT PETITION under Articles 226/227
of the Constitution of India for the issuance of a
writ in the nature of Certiorari for setting aside
the order dated 06.10.2017 (Annexure P-17)
being wrong, illegal and against the record as
well as law.

AND

For the issuance of any other appropriate writ,
order or direction, as may be deemed necessary
in the facts and circumstances of the present
case.

RESPECTFULLY SHOWETH:

1. That the petitioner is permanent resident of State of Haryana and as such being the citizen of India, she is competent to invoke the extraordinary writ jurisdiction of this Hon'ble Court by way of filing the present writ petition under Article 226/227 of the Constitution of India.
2. That brief facts leading to filing the present petition are that the petitioner is allotted Plot No.1486, Sector 7, Urban Estate, Karnal, vide allotment letter dated 02.11.1988. After allotment of the said plot the petitioner paid all the installments regularly and with an intention to raising construction over the said plot, site plan of the proposed construction was sanctioned from the authorities and amount was deposited on 12.11.2006. A true copy of the re-allotment letter is annexed herewith this petition as **Annexure P-1**.
3. That thereafter, the petitioner was not feeling well and the petitioner sold the plot to one Sanjeev Kumar but on account of

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-28339-2017
Reserved on: 27.11.2024
Pronounced on: 20.01.2025

Lekh Raj Arora (Deceased) Through his LRs.

....Petitioner

Versus

State of Haryana and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vikram Singh, Advocate for the petitioner.
Mr. Deepak Bhardwaj, DAG, Haryana.
Mr. Deepak Balyan, Advocate for respondents No.2 and 3.

VIKRAM AGGARWAL, J.

The petitioner prays for the issuance of a writ of certiorari quashing the order dated 06.10.2017 (Annexure P-17) vide which the claim of the petitioner for exemption from payment of non-construction fee was dismissed.

2. Plot No.1486, Sector 7, Urban Estate, Karnal (hereinafter referred to as the 'disputed plot') was allotted to the petitioner vide re-allotment letter dated 02.11.1988 (Annexure P-1). As per the petition, all installments were regularly paid and site plan was sanctioned. Certain details of some litigation between the petitioner and one Sanjeev Kumar to whom the disputed plot had been initially agreed to be sold have also been given (Annexure P-2 to Annexure P-4). A notice dated 19.11.2008 (Annexure P-5) under Section 17 (3) of the Haryana Urban Development Authority Act, 1977 (for short 'HUDA Act') was issued to the petitioner to which a detailed reply dated 17.12.2008 (Annexure P-6) was summoned. Subsequently, vide communication dated 26.06.2013 (Annexure P-7), a sum of Rs.8,67,051/- was demanded on account of extension fee. This was followed by another letter dated

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22.08.2013 (Annexure P-8). Representations dated 26.09.2013 and 04.10.2013 (Annexure P-9 and Annexure P-10) were given which evoked no response.

3. Reference has been made to policy dated 12.04.2013 (Annexure P-11) vide which it was held that there would be no upper time limit for completing construction subject to payment of extension fee. The petitioner filed *CWP No.23387 of 2013* which was disposed of on 24.10.2013 with a direction to the respondents to pass a speaking order on the representations. Pursuant to the same, order dated 29.11.2013 (Annexure P-12) was passed which again led to the filing of *CWP No.28370 of 2013* which was disposed of on 20.12.2013 (Annexure P-13) with liberty to file an appeal. An appeal (Annexure P-14) was filed but the same was rejected stating that it would not be maintainable. Another writ petition bearing *CWP No.2865 of 2014* was filed by the petitioner which was again disposed of on 01.02.2017 directing the authorities to pass a reasoned order. Upon this, the impugned order dated 06.10.2017 (Annexure P-17) was passed, leading to the filing of the present writ petition.

4. The writ petition has been opposed by the respondents. The basic stand that has been taken is that a sum of Rs.4,37,505/- was due on account of extension fee which the petitioner was liable to pay. It has been averred that possession was offered on 20.11.1991 (Annexure R-2) and as per Regulation 17 of the Haryana Urban Development Authority(Disposal of Land and Building) Regulation, 1978, the building was to be constructed within a period of two years from the date of offer of possession. Vide policy dated 02.07.2007 (Annexure R-3), it was decided that no extension would be granted beyond 15 years including the initial period of two years. Certain relaxations were made and ultimately, a policy dated 12.04.2013 (Annexure R-5) was framed in which it was decided that there would be no upper time limit within which an allottee would be required to complete the minimum required

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construction but the extension fee beyond the initially allowed period of two years would be charged as per the rates fixed in the said policy. It is the case of the respondents that the petition is misconceived, for, on one hand the petitioner is seeking extension in the period of construction in terms of the policy dated 12.04.2013 and on the other hand is refusing to pay extension fee. The speaking order has been defended stating that the same has been passed in accordance with law.

5. Replication was filed in which the averments made in the written statement were denied and those made in the writ petition were reiterated.

6. Learned counsel for the parties were heard.

7. It was submitted by learned counsel for the petitioner that the petitioner was not liable to pay extension fee. Reference was made to various documents placed on record including the policies issued from time to time.

8. *Per contra*, it was submitted by learned counsel for the respondents that the claim of the petitioner is devoid of merit in view of the terms and conditions of the policy dated 12.04.2013.

9. We have considered the submissions made by learned counsel for the parties but find the same to be devoid of merit. The policy dated 12.04.2013 is on record as Annexure P-11. The subject of the policy is extension in time limit for construction on residential/commercial plots beyond the stipulated period of two years. It notices that the time for construction of residential/commercial plots was modified on 28.08.2009. Thereafter, after examining the matter, it was decided by way of the said policy that there would be no upper time limit within which an allottee would be required to complete the minimum required construction and further that the extension fee beyond the initial allowed period of two years would be as per the rates given in the table in the policy. This was as regards residential plots.

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There were other conditions as regards commercial plots. The policy nowhere says that extension fee would not be payable. In fact, as noticed above, it gives the rates at which extension fee was payable. The speaking order duly noticed this fact and clauses of the policy while rejecting the claim of the petitioner;

"After taking all the facts and circumstances into consideration and the policy dated 12.04.2013, it is clear that extension in construction for two years was granted by the policy dated 12.04.2013 i.e for the year 2008 and 2009, but the same was given subject to payment of non construction/ extension fee. Therefore, in these circumstances the allottee is not entitled for exemption from non construction fee for the year 2008- 09. Hence, the allottee was liable to pay non construction fee upto 2013. The parties were heard on 29.08.2017, but the order was reserved which is being announced today i.e. 06.10.2017.

Be communicated to the parties."

10. We do not find any error in the said impugned order because the same has been passed strictly in terms of the policy dated 12.04.2013. The claim of the petitioner is, therefore, found to be totally devoid of merit.

In view of the aforementioned facts and circumstances, we do not find any merit in the present writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 20.01.2025
Prince Chawla

Whether speaking/reasoned :

Yes/No.

Whether reportable :

Yes/No.