
(2013) 07 P&H CK 0494
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3663 of 2012

Jagdish Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0494

Hon'ble Judges : Satish Kumar Mittal, J; Mahavir S. Chauhan, J

Bench : Division Bench

Advocate : Sunil Panwar, for the Appellant; Randhir Singh, A.A.G., Haryana and Mr. J.P. Bhatt, Advocate, for the Respondent

Judgement

Satish Kumar Mittal, J.—The counsel for the petitioner filed replication to the written statement of the respondents in Court today. The same is taken on record, subject to all just exceptions. The petitioner was allotted industrial plot No. 64 in Industrial Area, Dharuhera, by the Haryana Urban Development Authority (hereinafter referred to as "the HUDA") vide allotment letter dated 25.04.1996 (Annexure P-1). Undisputedly, the petitioner paid the entire premium of the said plot. As per the letter of allotment, the petitioner was required to raise construction on the said plot within two years after taking possession of the same. However, the petitioner did not raise the construction within the time prescribed, consequently, the plot in question was ordered to be resumed, vide order dated 14.08.2000 (Annexure P-8), on the ground of non-construction, by the Estate Officer, HUDA, Rewari.

2. Feeling aggrieved against the said order, the petitioner filed an appeal before the Administrator, HUDA, Gurgaon. The said appeal was dismissed on 24.10.2002 (Annexure P-9).

3. Against the said order, the petitioner filed a revision petition before the Financial Commissioner, Haryana. The said revision petition was also dismissed on 08.09.2003 (Annexure P-10).

4. Thereafter, the petitioner approached the District Consumer Disputes Redressal Forum, Gurgaon, by filing a complaint against the HUDA. The said complaint was allowed by the District Consumer Disputes Redressal Forum, Gurgaon, and the resumption order dated 14.08.2000 (Annexure P-8) passed by the Estate Officer, HUDA, Rewari, on account of non-construction, was set aside vide order dated 08.09.2006 (Annexure P-16).

5. The HUDA challenged the said order dated 08.09.2006 by filing an appeal before the State Consumer Disputes Redressal Commission, Haryana. The said appeal filed by the HUDA was allowed on 31.05.2011 (Annexure P-17) and the order of the District Consumer Disputes Redressal Forum, Gurgaon, was set aside on the ground that the petitioner did not fall under the definition "consumer", therefore, the complaint filed by him under the Consumer Act, is not maintainable and the petitioner has remedy under the civil law.

6. Consequently, the petitioner filed the instant writ petition, challenging the order dated 14.08.2000 (Annexure P-8) passed by the Estate Officer resuming the industrial plot No. 64 as well as order dated 24.10.2002 (Annexure P-9) and order dated 08.09.2003 (Annexure P-10), whereby the appeal and revision, respectively, challenging the said order, have been dismissed.

7. In this case, while issuing notice of motion on 28.02.2012, re-allotment of the plot, in question, was stayed. In view of the said interim order, till date the said plot has not been allotted to anyone.

8. During the pendency of the present writ petition, the HUDA has changed its policy with regard to the time limit provided for construction of the residential/commercial plot allotted by the HUDA to the various allottees. Now, under new policy dated 12.04.2013, there is no upper limit of the time within which the allottee is required to complete the minimum required construction. As per Clause 6 of the said policy, this policy shall be applicable to all the cases where resumption orders have been passed due to non-construction but the allottees/re-allottees have challenged the resumption order and the litigation is pending in any Forum. In this policy it is further provided that it is the duty of the Estate Officer to inform the Court/Authority where the appeal or litigation is pending so that those appeal/litigation may be considered and disposed of, in accordance with this policy.

9. The learned counsel for the respondents states that in view of the Clause 6 of the said policy, the case of the petitioner will be considered, in accordance with law.

10. In view of the aforesaid factual and legal position, we dispose of this writ petition with a direction to the respondents to consider the case of the petitioner, in the light of the said policy and regularize the case of the petitioner on charging the non-construction fee, under the new policy. Disposed of.