
(2012) 03 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 8105 of 2009

Rajnish Bansal and others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 26-03-2012

Acts Referred:

Citation : (2012) 3 RCR(Civil) 474

Hon'ble Judges : Rakesh Kumar Jain, J; Rajive Bhalla, J

Bench : Division Bench

Advocate : Chetan Mittal, with Mr. Vishal Garg, for the Appellant; Amit Chaudhary, DAG, Punjab for the Respondent No. 1 and Mr. Aman Sharma for Mr. Rupinder S. Khosla, Advocates for the Respondent Nos. 2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—Petitioners are the legal heirs of one Gian Parkash. who have prayed for issuance of a writ of certiorari for quashing order dated 24.12.2007 (Annexure P-4) passed by respondent No. 4, order dated 30.05.2008 (Annexure P-5) passed by respondent No. 3 and order dated 04.11.2008 (Annexure P-7) passed by respondent No. 1, on the ground that the allotment of plot in favour of Gian Parkash (since deceased) has illegally been cancelled. In brief, Gian Parkash (since deceased) applied for two plots of 250 Sq. Yards by way of two separate application, Form Nos. 11698 and 11700 in the scheme, floated by respondent No. 2, known as "85 residential plots at Urban Estate Phase 1, 2 and 3, Patiala". In the draw of lots held on 28.06.2007 for allotment of 85 residential plots, against Form No. 11698, plot No. 352. Urban Estate, Phase-2, Patiala, was allotted and the amount deposited in respect of the second Form No. 11700 was refunded. It is alleged that respondent No. 4 issued a letter dated 25.10.2007 (Annexure P-3) to Gian Parkash, to make representation with regard to plot No. 352. Phase-2, Patiala. The said plot was ultimately cancelled vide the impugned order Annexure P-4 on the ground that Gian Parkash had

misled the Estate Office and violated the terms and conditions of the brochure while applying for two plots vide two separate application forms in the same category (size-wise). The petitioners filed the statutory appeal which was dismissed vide Annexure P-5 and his revision was dismissed vide Annexure P-7, which led to the filing of present writ petition in which, at the time of issuance of notice of motion, it was observed that the allotment of plot, if any, shall be without prejudice to the petitioners' right.

2. Counsel for the petitioners has basically argued that once plot No. 352 was allotted after thorough screening and scrutiny without there being any objection, the respondents had no right to cancel it, even on the alleged ground that the petitioners had applied for two plots of the same category/size.

3. On the other hand, counsel for the respondents has drawn attention of this Court to clause 4 of the instructions for filling of the application form, which reads as under :

4. Only one member of family i.e. One or the other spouse, shall be eligible to apply for one plot in one category either in general or in way of the reserved categories for which he/she may be eligible. Same condition applies to the applicants applying for more than one category (size-wise) i.e. if a person makes more than one application in the category (size wise) this will tantamount to misleading the Authority which may result in cancellation of application/allotment.

4. We have heard counsel for the parties and perused the from which we have found that the allottee had applied in the category of 250 Sq. Yards, by way of two separate application Form Nos. 11698 and 11700, both in his own name, and had stated in column No. 11 of his application Form No. 11698 that "Whether the applicant or his/her spouse has applied in any other category/categories (size wise). (Reply in Yes/No in the Box) [Yes]". He had also filed his affidavit dated 06.07.2007 in which he has averred that "the information given in application form No. 11698 for allotment of plot/House/flat in Urban Estate, Patiala is true to the best of knowledge and belief and nothing has been concealed therein".

5. It is apparent that while making a declaration in column No. 11 of application Form No. 11698. which is attached as Annexure R-2 with the reply, the allottee had tried to mislead the respondents as he had averred that he had applied for another plot in another category (size wise), which means that it was different from 250 Sq. Yards, whereas vide application Form No. 11700, he had applied for the same size plot.

6. An allottee and the respondents are bound by the terms and conditions of the brochure and as Clause 4 of the instructions for filling up the application categorically empowers the respondents to cancel the allotment/application, if they perceive that the allottee had misled the respondents by making an application for allotment of plot vide two separate application forms, in the same category (size wise), no fault can be found with the action of the respondents in cancelling the allotment of plot No. 352, Urban Estate, Phase-2, Patiala.

No other point has been raised. In view of the aforesaid discussion, we do not find any merit in the present writ petition and hence, the same is hereby dismissed, but without any order as to costs.