
(1999) 12 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1356 of 1984

Smt. Parkash Wati Mehra

APPELLANT

Vs

The Housing Board and Others

RESPONDENT

Date of Decision : 03-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 126 PLR 149 : (2000) 2 RCR(Civil) 467

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : U.D. Gaur, for the Appellant; V.K. Vashishta, for the Respondent

Final Decision : Dismissed

Judgement

R.L. Anand, J.—Smt. Parkashwati Mehra, has filed the present writ petition under Article 226/227 of the Constitution of India for the issuance of a writ of mandamus or any other direction to respondent No. 1 i.e. Housing Board, Haryana, to allot House No. HIG-426-P, Sector 6, Panchkula to the petitioner and the case set up by the petitioner in brief was that in pursuance of the alleged allotment order Annexure P-1, the petitioner deposited a sum of Rs. 10,000/- with respondent No. 1 and thus, there was a complete and concluded contract. Respondent No. 1, inspite of the acceptance of Rs. 10,000/- is not allotting the house No. HIG-426-P in Sector 6, Panchkula and, therefore the direction be given to respondent No. 1 to fulfil its obligations under the concluded contract.

2. Notice of the writ petition was given to the respondents and the defence of the respondents is that no concluded contract ever came into existence. The petitioner was never allotted the said house. The letter Ex.P-1, upon which the reliance has been placed by the petitioner is nothing but an invitation of an offer. The discretionary quota has already been abolished with effect from 26th February, 1981 and in these circumstances, no relief can be granted to the petitioner.

3. I have heard Shri U.D. Gaur, learned counsel appearing on behalf of the petitioner and Shri V.K. Vashishta, Advocate, appearing on behalf of respondent No. 1. and with their assistance have gone through the record of this case.

4. It will be useful for us to incorporate invarbatim the contents of the letter Annexure P-1 upon which the reliance has been placed by the petitioner:-

"HOUSING BOARD HARYANA KOTHI No. 64. SECTOR 8-A, CHANDIGARH.

No. HIG/1980/Spl. Dated 28.4.1980.

To Smt. Parkashwati Mehra, W/o Sh. Richpal Mehra, 618, Ravidass Nagar, Rohtak.

Sub : Allotment of house out of discretionary quota of the Chairman. Madam,

Reference, your application for allotment of HIG house at Panchkula out of the discretionary quota of the Chairman.

It is proposed to allot you a house HIG No. 426 "P" in the Housing Board Colony at Panchkula Sector 6 out of the discretionary quota of the Chairman.

3. You are requested to apply on the prescribed application form available with this Office on payment of Rs.5/- and deposit the initial payment of Rs. 10,000/- (Rs. Ten thousand only) within fifteen days from the date of issue of this letter, failing which it will be presumed that you are not interested in the allotment of the house. Regular allotment letter will be issued after you have completed the formalities required under the rules.

Yours faithfully, Sd/- Secretary, Housing Board, Haryana."

5. The reading of the above letter would show that there was no regular allotment in favour of the petitioner. This letter was issued under the signatures of the Secretary, Housing Board Haryana, who was not competent to allot the house from the discretionary quota of the Chairman. A reading of the letter would further show that a proposal was thrown to the petitioner to allot her a house No. HIG 426-P situated in the Housing Board Colony, Sector 6, Panchkula out of the discretionary quota of the Chairman. In pursuance of the invitation of an offer the petitioner deposited a sum of Rs. 10,000/- within time. Thereafter, there was no formal order of allotment by any competent authority.

6. It is the common case of the parties that the discretionary quota of the Chairman stood abolished with effect from 26th February, 1981. In these circumstances, the relief which is sought by the petitioner, cannot be granted. Otherwise also, the discretionary relief under Article 226 of the Constitution should not be awarded to the petitioner who may have an alternate remedy to get the relief, if available to her from the Court of competent jurisdiction.

7. Faced with this difficulty the learned counsel for the petitioner relies upon a judgment of this Court reported as Capt. J.S. Gosal Vs. The Estate Officer, Urban Estates and Others, , and submitted that the ratio of this judgment is applicable

to the facts in hand. I am not in a position to agree with the contention raised by the learned counsel for the petitioner. In the cited case there was an allotment order passed by the competent authority in favour of the petitioner and in pursuance of that allotment the money was deposited. In these circumstances, his Lordship was pleased to hold that since there was a concluded contract, it should be enforced by the competent authority.

8. The learned counsel for the petitioner then refers to a letter dated 28th October, 1981 issued by the Superintending Engineer to the petitioner in which it was informed to the petitioner that her request to construct boundary wall and to provide steel gate in the said house at that stage could not be exceeded to. From this letter, counsel for the petitioner wants to conclude that the Housing Board, Haryana, had been treating the petitioner as an allottee. I am not in a position to agree with this submission also raised by the learned counsel for the petitioner.

9. In order to give any relief to the petitioner, it has to be established by the petitioner about the allotment. Superintending Engineer may or may not be aware of the fact whether there was any valid allotment in favour of the petitioner or not. In these circumstances, the contents of the letter will not advance the case of the petitioner.

10. In this case, even the subject matter, which was allegedly agreed to be transferred in favour of the petitioner, is no more with the abolition of the discretionary quota of the Chairman. Prior to 26th February, 1981 the competent authority did not issue any order of allotment in favour of the petitioner. In these circumstances, this petition is totally devoid of any merit and the same is hereby dismissed with no order as to costs.