

(2000) 09 P&H CK 0172

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10144 of 2000

Smt. Pushplata Jhunjunwala

APPELLANT

Vs

The Chief Administrator Huda and others

RESPONDENT

Date of Decision : 11-09-2000

Acts Referred:

Citation : (2000) 09 P&H CK 0172

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : R.S. Mittal, with Mr. Sudhir Mittal, for the Appellant; D.P. Singh, D.A.G. Haryana, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The dispute relates to plot No. 1523, Sector 21, Panchkula. This plot was initially allotted to Nand Lal Bajaj. He had transferred it in favour of Satish Kumar etc. They in turn had transferred it to Mr. Madan Lal Kaushal on October 8, 1998. Letter of re-allotment was issued in favour of Shri Madan Lal Kaushal.

2. The Petitioner wanted to buy this plot. She entered into an agreement for the purchase of plot with Shri Madan Lal Kaushal. On December 27, 1999 Mr. Kaushal applied to the Estate Officer, HUDA for permission to transfer the plot in favour of the Petitioner. He also made a deposit of Rs. 23440/- on account of transfer fee. On February 1, 2000 the Petitioner deposited Rs. 20,782 as extension fee for permission to construct the house upto December 31, 2000. On February 25, 2000 the Estate Officer, HUDA informed Mr. Madan Lal Kaushal that he is "hereby permitted to transfer the above mentioned plot/house to Pushpalata Jhunjunwala wife of Sh. Shree Gopal Jhunjunwala resident of H. No. 534, Sector 16, Panchkula within a period of sixty days ". Mr. Kaushal was further asked to submit certain documents like an indemnity bond and affidavit. The Petitioner alleges that all the documents were submitted on February 28, 2000. Thereafter the Petitioner submits an application for sanction of the building plan. In response to this request, the second Respondent sent a communication dated

July 14, 2000 by which she was informed that the plot "stands in the name of Madan Lal Kaushal due to which building plan cannot be issued in your name." She was asked to get the plot transferred in her name. This communication was issued in view of the policy decision communicated by the Chief Administration, HUDA vide memorandum dated March 8, 2000 to various Administrators/Estate Officers. A copy of this document is on record is Annexure P.4. By this order, it has been inter-alia provided that "the transfer of residential/commercial plots wherein either full payment has already been made or laid down schedule of payment of instalments is over, whichever, is earlier, shall be allowed only through execution of conveyance deed/sale deed." Thus, the Respondents maintain that a conveyance deed has to be executed in favour of Mr. Madan Lal Kaushal before the plot is allowed to be transferred in favour of the Petitioner. The implication is that registration charges have first to be paid by Mr. Kaushal and thereafter by the Petitioner.

3. Mr. R.S. Mittal, learned Counsel for the Petitioner contends that the memorandum dated March 8, 2000, a copy of which has been placed on record as Annexure P.4 shall not apply to the Petitioner's case. He contends that the permission has already been granted vide letter dated February 25, 2000. A copy of this letter is Annexure P.3 with the writ petition. The documents asked for in this letter have been duly furnished on February 28, 2000. Thus, the revised decision cannot govern the Petitioner's case. The claim made on behalf of the Petitioner has not been disputed by the counsel for the Respondents.

4. We think the stand taken by Mr. D.P. Singh is absolutely fair and correct. Admittedly, all the documents had been furnished on February 28, 2000. Formal permission has already been granted to Madan Lal Kaushal vide letter dated February 25, 2000. Thus, the Respondents were bound to transfer the plot in favour of the Petitioner. The letter dated March 8, 2000 cannot have retrospective effect so as to prejudicially affect the interest of the Petitioner. That being so the action of the Respondents in not approving the plan for construction of the building also cannot be sustained.

5. Another fact which deserved notice is that after the issue of letter dated March 8, 2000 another communication was circulated vide memorandum dated March 9, 2000. In this memorandum it was inter-alia provided that "in cases where transfer permission has been granted and the process of final transfer has not been completed till 7.3.2000 meaning thereby that final transfer letter has not been issued, in such cases also the transfer permission already granted may be withdrawn and the allottees may be apprised of the new transfer policy..." Mr. Mittal contends that stipulation is wholly illegal. Mr. D.P. Singh very fairly states that no cancellation letter having been issued to the Petitioner, the communication is not relevant.

6. In view of the above, the writ petition is allowed. The communication dated July 14, 2000, a copy of which has been produced as Annexure P-6, is quashed. The Respondents are directed to consider and decide the Petitioner's application

afresh. The needful shall be done within one month from the date of receipt of a copy of this order. The time spent by the Respondents in sanctioning the Petitioner's plan from the date of the submission of the application to the communication of the approval shall be added to the time already granted to her for completing the building, without payment of any ex-tention fee thereof. We trust and hope that the Respondents shall review/examine the pending/decided cases in the light of the above. No costs.

Sd/- K.S. Garewal, J.