

(2002) 04 P&H CK 0098
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7936 of 1991

Smt. Sushma and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 23-04-2002

Acts Referred:

Citation : (2002) 3 RCR(Civil) 46

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

Bench : Single Bench

Advocate : P.S. Patwalia, for the Appellant; Ashok Aggarwal, Addl. A.G., for the Respondent

Final Decision : Allowed

Judgement

R.L. Anand, J.—The petitioners as mentioned in the head note of the writ petition have filed this writ petition against the State of Punjab and improvement Trust, Bathinda and it has been prayed by them that a writ in the nature of Mandamus be issued directing the respondents not to charge interest on the instalments till possession of fully developed plot is handed over to them. Some facts can be noticed in the following manner:-

2. The Improvement Trust, Bathinda, allotted plot of different sizes ranging from 250 to 500 square yards as mentioned in para 4 of the writ petition. These plots were allotted in September, 1989. The plots formed part of Scheme No. 16.44 acres Development Scheme of Improvement Trust, Bathinda. As per the conditions of auction, 25% of the bid amount was supposed to be paid within 30 days from the date of issuance of allotment letter and the rest 75% was supposed to be paid in 5 half yearly instalments. The petitioners paid 25% amount within the stipulated time. They further paid the first two instalments as per the schedule of the allotment letter without interest. They did not pay the remaining instalments mainly on the ground that the amenities which were promised to be given to the allottees had not been restored or created for them by the Improvement Trust, Having failed to resume the amenities by the

Improvement Trust, the petitioners have approached this Court.

3. Notice of the writ petition was given to the respondents.

4. The stand taken up by the respondents is that interest is being charged from the petitioners because they are making the payment in instalments. They have not even applied to the Trust for demarcation of the plots. It is also argued by the learned counsel for the respondents that the matter is liable to be referred to the Arbitrator or Secretary, Local Bodies, Punjab, Chandigarh. Rejoinder was also filed on behalf of the petitioners in which they reiterated every allegation made in the writ petition by denying those of the written statement.

5. The sole point for determination before me is whether the petitioners are required to pay interest when respondent-Trust has not created or restored the amenities like sewerage etc. to them. When any allotment is made, it always carries with it the implied promise on the part of the authorities that the allottees shall be given the possession and the area under auction will be developed. It is stated at the bar by the learned counsel for the petitioners that the very basic amenity such as sewerage was not provided till last year. Since, now sewerage has been provided, therefore, the respondent-authorities can only charge interest, when they have complied with the basic amenity.

6. In this view of the matter, this writ petition is allowed. Directions are given to the respondent authorities to charge interest from the petitioners on the residuary amount with effect from 1.1.2001. The respondent authorities shall issue a demand notice to the petitioners indicating the amount and interest separately within 15 days from the date of receipt of the copy of this order and the requisite demanded amount shall be paid by the petitioners thereafter. The possession shall also be delivered to the allottees if they apply for the demarcation. No order as to costs.