

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 16591 of 2010

Date of Decision: 26.9.2012

Sudesh Kharbanda and Others

... Petitioners

Versus

Haryana Urban Development Authority and Others

... Respondents

**CORAM: Hon'ble Mr. Justice Jasbir Singh.
Hon'ble Mr. Justice Rameshwar Singh Malik.**

Present: Mr. Arun Jain, Senior Advocate
with Mr. Arnav Sood, Advocate
for the petitioners.

Mr. Ajay Nara, Advocate
for the respondents.

Jasbir Singh, Judge (Oral)

The petitioners were allotted S.C.O. No. 388, Sector 20, Panchkula, in the auction held on 27.3.2000 by respondent No.1- Haryana Urban Development Authority (hereinafter referred to as "HUDA") being the highest bidders. Letter of allotment was issued on 10.5.2000 (Annexure P2). The tentative price of the said plot was fixed at ₹ 64,00,000. The schedule to make payment was given in the allotment letter as under:-

"23. The half yearly instalments will fall due on 16th August and 16th February every year. The details of half yearly instalments are as under:-

<i>Installment No.</i>	<i>Principal</i>	<i>Possession offer interest</i>	<i>Total</i>
1) 8.12.2K	Rs.600000/-	Rs. 360000/-	Rs.960000/-
2) 8.06.01	Rs.600000/-	Rs.315000/-	Rs.915000/-
3) 8.12.01	Rs.600000/-	Rs.2,70,000/-	Rs.870000/-
4) 8.6.02	Rs.600000/-	Rs.2,25,000/-	Rs.825000/-
5) 8.12.02	Rs.600000/-	Rs.180000	Rs.780000/-
6) 8.6.03	Rs.600000/-	Rs.1,35,000/-	Rs.735000/-
7) 8.12.03	Rs.600000/-	Rs.90000/-	Rs.6,90,000/-
8) 8.6.04	Rs.600000/-	Rs.45000/-	Rs.645000/-

As per the allotment letter, the petitioners were to remit payment upto 25% of the price of the plot within 30 days prior to make any payment towards the instalments.

It is grievance of the petitioners that because of some dispute, regarding measurement of the area in the sector, possession was not given to them, however, they paid an amount of ₹ 52,00,000 by September 2003. Despite many requests made, possession was not offered to the petitioners. The petitioners received a letter on 2.5.2003 wherein they were directed to deposit an amount of ₹ 27,23,240 towards price of the plot and ₹ 19,060 as extension fee. It was stated in the letter that possession of the plot shall be offered only on making the above payment. The petitioners challenged the above letter before the District Consumer Redressal Forum, Panchkula (hereinafter referred to as “the Forum”) in the month of October, 2003. Thereafter, they again received a letter dated 15.10.2003 wherein the demand to deposit an amount more than ₹ 27,00,000 was reiterated and it was stated that the petitioners could get possession of the plot on any working day. The complaint filed by the petitioners was allowed by the Forum on

23.2.2004 and the respondents were directed to hand over physical possession of the plot in question to the petitioners and not to charge any extension fee. Feeling aggrieved, an appeal was filed by the respondents before the State Consumer Disputes Redressal Commission, Haryana, which was accepted on 31.8.2010 on the ground that the allottees cannot be considered as consumers. However, liberty was given to the petitioners to avail of the remedy, as per law. Thereafter, this writ petition was filed.

The primary grievance of counsel for the petitioners is that despite payment of ₹ 52,00,000 by September, 2003 possession of the plots was not delivered to the petitioners and, therefore, the authorities are not justified in charging the interest and the extension fee, as has been done in the present case.

Be that as it may, at the time of arguments, counsel for the petitioners has made a very fair offer that the petitioners are ready to deposit an amount of ₹ 27,23,240 towards price of the plot and ₹ 19,060 as extension fee without prejudice to their rights with respondent No.3, within 30 days from today and thereafter, the possession be delivered to them.

Under the circumstances, we dispose of this writ petition with a liberty to the petitioners to deposit the above said amount with respondent No. 3 within 30 days from today. Upon their doing so, respondent No.3 shall hand over possession of plot in question within seven days to them. Respondent No.3 shall also hand over the calculations for the amount, so demanded, to the petitioners wherein it

will be specifically stated as to from which date the interest is being charged. Reference shall also be made to a fact as to when the possession was offered to the petitioners and from which date penal interest was imposed. A detailed speaking order shall be passed after giving due opportunity of hearing to the petitioners. If it is found that they had already paid the entire amount towards cost price and extension fee etc. then no further fee be charged from them and to the contrary if respondent No.3 wishes to claim more amount, liberty shall remain with the petitioners to challenge the demand raised. The issues which have been raised in this writ petition are kept open.

(Jasbir Singh)
Judge

(Rameshwar Singh Malik)
Judge

September 26, 2012

“DK”