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HARSH VARDHAN BANSAL

v.

CHANDIGARH HOUSING BOARD AND ANR.

MAY 24, 2006

B

[DR. AR. LAKSHMANAN AND LOKESHWAR SINGH PANTA, JJ.]

Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979; Regulation 6:

C

Allotment of an Industrial flat—Suppression of information regarding owning a house—Ineligibility—Held. The Housing Board could cancel the registration of the flat and also could forfeit the amount deposited—The Board refunded the major portion of the amount—Under the circumstances, it is not proper to go into merits of the rival claims/correctness of the order—

D

Since the applicant already furnished all the details in the application form for registration on a bonafide belief, career of the applicants would not be affected by the observation made by the High Court or in terms of show cause notice issued by the Board.

E

An industrial flat was allotted to the appellant under a Scheme of the Chandigarh Housing Board. Under the Scheme, a person would be eligible for allotment of a flat in case he/she or his wife/her husband or any of his/her dependent relations including unmarried children does not own on free hold or lease-hold or on hire-purchase basis a residential plot/house in the specified area or acquire a house through government

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at concessional rate. A complaint was received by the respondent-Housing Board against the appellant that he had already acquired a flat in NOIDA under the Self-financing Scheme of Air force Naval Housing Board, and the same was confirmed by the Air Force Naval Housing Board. It was also intimated by them to the respondent Board that land

G

for the construction of group housing was allotted to them by the NOIDA at a fixed rate as was charged from other group housing societies. Consequently, the Board cancelled the allotment made in favour of the appellant. The appellant challenged the order before the High Court, which was dismissed by the High Court. Hence the present appeal.

H

Respondent-Board submitted that the appellant has furnished incorrect information in regard to the allotment made in his favour by the NOIDA authorities and has suppressed such fact from the purview of the Housing Board; that though Clause XI of the Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979 enables the Board to cancel the registration of the dwelling unit or the flat and to forfeit the deposit received with the application and all the payments made to the Board thereafter.

Disposing of the appeal, the Court

HELD : 1.1. The Housing Board has refunded a sum of Rs. 8 lacs and odd to the appellant even though they are entitled to forfeit the entire deposit made. Since a major portion of the amount deposited has already been refunded to the appellant, it would not be appropriate to go into the merits of the rival claims or the correctness of the order passed by the High Court or the cancellation order passed by the Housing Board. [965-E-F]

1.2. It is clarified that any observation made in the Show Cause Notice or in the order passed by the High Court would not affect the career of the appellant, since the appellant has furnished all the details in the application form for registration on a *bonafide* belief and impression. [965-E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7494 of 2004.

From the Judgment and Order dated 21.2.2002 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 14904/1999.

Ms. Prasanthi Prasad, Adv., for the Appellant.

Mrs. Rachna Joshi Issar, Adv., for the Respondents.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. : Heard Ms. Prashanthi Prasad, learned counsel for the appellant and Ms. Rachana Joshi Issar, learned counsel for the respondent Board.

A This appeal is directed against the order passed by the High Court dismissing the writ petition filed by the appellant herein on the ground of concealment of facts. The appellant applied for allotment of an H.I.G. (Ind.) flat. Under the Scheme, a person would be eligible for allotment of a dwelling unit in case he/she or his wife/her husband or any of his/her dependent relations including unmarried children does not own free hold or lease-hold or on hire-purchase basis a residential plot/house in the Union Territory of Chandigarh or in either of the Urban Estates of Mohali and Panchkula. Similarly, in case he/she has acquired a house/residential site anywhere in India through Govt./semi government/Municipal Committee/ Corporation/Improvement Trust at concessional rates, i.e. at reserved/fixed price, in his/her name or in the names of dependent members of his/her family, he/she will not be eligible for allotment of a dwelling unit.

D A complaint was received by the respondent-Housing Board that the appellant was owning a flat namely K-26, Sector-25, NOIDA under the self-finance housing scheme of Airforce Naval Housing Board and the same was confirmed by the Airforce Naval Housing Board, New Delhi vide its letter dated 10.09.1997. It was also further intimated to the respondent Board that land for the construction of group housing was allotted to it by the NOIDA at a fixed rate as was charged from other group housing societies. At the time of hearing, our attention was drawn to para 11 at page 93 of the paper-book, which read as follows:

F “Whether you, or your wife/husband or any of your dependent relations including unmarried children is a member of any Cooperative House Building Society which has been allotted land or is registered for allotment of land at reserve/fixed price for construction of Residential house for its members, under any scheme framed/notified by the Government, Urban Development Authority/Housing Board/Improvement Trust/Municipal Committee/Corporations/Notified Area Committee?”

G Learned counsel for the respondent Board submitted that the appellant has furnished incorrect information in regard to the allotment made in his favour by the NOIDA authorities and has suppressed such fact from the purview of the Housing Board. Therefore, the respondent Board, by the impugned Show Cause Notice, cancelled the allotment made in favour of the H appellant which was challenged before the High Court. The High Court

dismissed the writ petition filed by the appellant. Our attention was also drawn to clause XI of Regulation 6 of the Scheme which reads as follows:

“XI. Mis-representation or suppression of facts :- If it is found at any time that the applicant has furnished any incorrect or false information or suppressed any material facts in the application form for registration or later on, which makes him/her ineligible, the registration as well as allotment, if made, shall be cancelled and the total deposit made till date shall be liable to be forfeited. The applicant shall further be liable to penal consequences under the law.”

Learned counsel for the respondent-Board submitted that though the Clause XI of the Chandigarh Housing Board (Allotment, Management and Sale of Tenements) Regulations, 1979 enables the Board to cancel the registration of the dwelling unit or the flat and to forfeit the deposit received with the application and all the payments made to the Board thereafter, the respondent pursuant to the order passed by this Court on 12.7.2004 refunded Rs. 8,06,441. As already noticed, a sum of Rs. 10 lacs and odd was deposited and the Housing Board has now refunded a sum of Rs. 8 lacs and odd even though they are entitled to forfeit the entire deposit made. Now that a major portion of the amount has already been refunded to the appellant, we do not propose to go into the merits of the rival claims or the correctness of the order passed by the High Court or the cancellation order passed by the Housing Board. We also make it clear that any observation made in the Show Cause Notice or in the order passed by the High Court will not affect the career of the appellant herein since, as argued and accepted by us, the appellant has furnished all the details in the application form for registration on a *bonafide* belief and impression.

The civil appeal is disposed of according. No costs.

S.K.S.

Appeal disposed of.