

Before Ajay Kumar Mittal & Ramendra Jain, JJ.

VIPUL JAIN — *Petitioner*

versus

STATE OF PUNJAB AND OTHERS — *Respondents*

CWP No. 17227 of 2016

August 24, 2016

Constitution of India, 1950 — Art.226&227 — Petitioner successful in draw of lots was issued letter of intent on 28.02.2011 by GMADA — As per Clause 5 of Letter of Intent, 15 % of total price to be deposited within 30 days — Petitioner overlooked Clause 5, but made payment of first instalment on 23.02.2012 — Subsequently on phone call from GMADA, he deposited 15% amount with interest and penalty on 15.01.2013 — Thereafter he moved application for condoning delay in making payment of 15% — Estate Officer ordered cancellation of Letter of Intent — Order upheld by appellate and revisional authorities — In writ jurisdiction, High Court held that Clause 8 empowering authorities to condone delay in payment was only in respect of instalments and does not apply to the initial deposit of 15% — Writ petition dismissed.

Held, that admittedly, the petitioner was required to deposit 15% amount of the total price of the plot within 30 days from the issuance of letter of intent dated 28.02.2011, but he deposited the said amount in the bank account of the GMADA on 15.01.2013, i.e. after delay of more than one year and nine months. Failure on the part of the petitioner to deposit 15% within 30 days of issuance of letter of intent had resulted in cancellation of the letter of intent and forfeiture of 10% amount in term thereof. Before the revisional authority, the Law Officer of GMADA had submitted that according to the instructions delay upto 180 days can be condoned by Vice Chairman. Even otherwise, as per Clause 8 of the letter of intent, only delay in making payment of an instalment can be condoned. But the payment of a sum of rs. 3,60,000/-, being 15% of total price of plot which was payable within 30 days from the date of issue of the letter of intent cannot be termed to be an instalment. Thus, Clause 8 of the letter of intent does not come to the rescue of the petitioner.

(Para 6)

Naresh Jain, Advocate, *for the petitioner.*

RAMENDRA JAIN, J.

(1) The petitioner has filed this petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the order dated 21.01.2016 (Annexure P-10) passed by respondent No.1; order dated 26.09.2014 (Annexure P-9) passed by the Chief Administrator, Greater Mohali Area Development Authority (for short Rs.GMADA') (respondent No.2 herein) and the order dated 04.10.2013 (Annexure P-7) passed by the Estate Officer, GMADA (respondent No.3 herein), whereby the letter of intent dated 28.02.2011 (Annexure P-2) issued to the petitioner has been ordered to be cancelled. Further direction has been sought to direct the respondents to accept the entire amount of the plot allotted to the petitioner and thereupon to deliver possession of the plot to him.

(2) Briefly stated, it is the case of the petitioner that on an application submitted by the petitioner on 06.07.2010 for allotment of a plot measuring 200 square yards, in pursuance of a scheme floated by the GMADA by the name of "GMADA Aerocity Mohali" vide brochure dated 07.06.2010 (Annexure P-1), he was issued a letter of intent dated 28.02.2011 (Annexure P-2) being successful in the draw of lots. As per clause 5 of the letter of intent, the petitioner was to deposit a sum of Rs.3,60,000/-, being 15% of total price of the plot within 30 days from the date of issue of the said letter dated 28.02.2011. However, due to some inadvertent mistake, the petitioner happen to over look this clause and while directly opting for Option C of the payment plan deposited Rs.3,24,000/-, being the first instalment on 23.02.2012. Subsequently, on receiving a phone call from GMADA office that the aforesaid 15% amount of the total price of plot was not deposited, the petitioner deposited the said amount along with interest and penalty on 15.01.2013. Thereafter, the petitioner submitted an application dated 05.09.2013 (Annexure P-5) requesting respondent No.3 to condone the delay in making the payment of aforesaid 15% amount. Without considering the said application, respondent No.3 passed order dated 04.10.2013 (Annexure P-7) ordered for cancellation of letter of intent dated 28.02.2011 in favour of the petitioner and ordered to refund the amount deposited by the petitioner, after forfeiting 10% amount of the total price of plot. On coming to know about this order vide letter dated 28.10.2013 (Annexure P-6) issued by the Accounts Officer, Estate Officer, GMADA, the petitioner challenged the said order dated 04.10.2013 by filing an appeal, which was dismissed by respondent No.2 vide order dated 24.09.2014

(Annexure P-9). Aggrieved by the same, the petitioner filed revision petition, which has also been dismissed by respondent No.1 vide order dated 21.01.2016.

(3) Still not satisfied, by filing the instant petition, the petitioner has challenged the aforesaid three orders.

(4) Learned counsel for the petitioner argued that as per Clause 8 of the letter of intent, if an allottee moves application within the specified period, for condonation of delay in making payment of any instalment by due date, he/she shall be liable to pay interest and penalty on the amount due at the rates mentioned in the said Clause itself. In the instant case, the petitioner had moved such application, but without considering the same, respondent No.3 passed the impugned order dated 04.10.2013 in violation of Clause 8 of the letter of intent. The appeal and revision filed by the petitioner against the said order have also been wrongly dismissed.

(5) We have thoughtfully considered the submissions made by learned counsel for the petitioner and do not find any merit in the same.

(6) Admittedly, the petitioner was required to deposit 15% amount of the total price of the plot within 30 days from the issuance of letter of intent dated 28.02.2011, but he deposited the said amount in the bank account of the GMADA on 15.01.2013, i.e. after delay of more than one year and nine months. Failure on the part of the petitioner to deposit 15% within 30 days of issuance of letter of intent had resulted in cancellation of the letter of intent and forfeiture of 10% amount in term thereof. Before the revisional authority, the Law Officer of GMADA had submitted that according to the instructions delay upto 180 days can be condoned by Vice Chairman. Even otherwise, as per Clause 8 of the letter of intent, only delay in making payment of an instalment can be condoned. But the payment of a sum of Rs. 3,60,000/-, being 15% of total price of plot which was payable within 30 days from the date of issue of the letter of intent can not be termed to be an instalment. Thus, Clause 8 of the letter of intent does not come to the rescue of the petitioner.

(7) In view of the above, we do not find any illegality in the order dated 04.10.2013 passed by respondent No.3 ordering cancellation of letter of intent dated 28.02.2011 in favour of the petitioner and refund of the amount deposited by the petitioner, after forfeiting 10% amount of the total price of plot. The said order has been rightly affirmed by the appellate and the revisional authorities

vide impugned orders dated 26.09.2014 and 21.01.2016, respectively.
Hence, we are not inclined to entertain this petition.

(8) Dismissed.

P.S. Bajwa