

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16796/2004

(From the judgement and order dated 23/04/2004 in CWP No. 11208/2003 of
The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAJ DULARI Petitioner(s)

VERSUS

STATE OF HARYANA AND ORS. Respondent(s)

(With office report)
(for final disposal)

Date: 30/01/2009 This Petition was called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE J.M. PANCHAL

For Petitioner(s) Mr. D.S. Bali, Sr. Adv.
Ms. Shalu Sharma, Adv.
Mr. Rajesh Sharma, Adv.

For Respondent(s) Mr. Neeraj Kumar Jain, AAG.
Mr. Sanjay Singh, Adv.
Mr. Sandeep Chaturvedi, Adv.
Mr. Umang Shankar, Adv.
Mr. Ugra Shankar Prasad, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed in terms of the signed order.

(PAWAN KUMAR) (S.S.R. KRISHNA)
COURT MASTER COURT MASTER
(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.607 OF 2009
(Arising out of SLP [C] No.16796 of 2004)

RAJ DULARI ... Appellant

Vs.

STATE OF HARYANA & ORS. ... Respondent

ORDER

Leave granted.

2. The appellant while working as a Superintendent in the office of the Advocate-General, Haryana made applications for allotment of a plot under the Government employees quota in Sector 25, Panchkula and for allotment of a plot under the general category in Sector 26, Panchkula. The Haryana Urban Development Authority (HUDA), by letter dated 14.11.1994 informed her that she had been selected for allotment of Plot No. 817 in Sector 26 under the general category in the draw of lots held on 31.10.1994. HUDA also selected her for allotment of a plot (No. 946 in Sector 25) under the Government employees quota.

3. As a person could not have allotment of more than one plot, the appellant opted for retaining the allotment of Plot No. 817 (Sector 26) under the general category, and sent a letter dated 10.3.1995 requesting for cancellation of proposed allotment of Plot No. 946 (Sector 25) under the Government employees quota.

4. HUDA, by letters dated 4.4.1995, called the appellant for a hearing and verification of documents, stating that she could not have more than one plot. Subsequently, HUDA cancelled the general category allotment of Plot No. 817 (Sector 26) as per communication dated 20.12.1995, on the ground that the appellant is not eligible for two plots and refunded the sum of Rs.20,500/- which had been deposited as earnest money for the said plot. The appellant accepted the cancellation of allotment of Plot No. 817 (Sector 26) being under the impression that she will get Plot No. 946 (Sector 25) under the Government employees quota.

5. One of the requirements for confirmation of allotment of plots under the Government employees quota was production of an Integrity Certificate from the employer within 90 days from the date of allotment (vide clause 10(iii) of the Allotment Brochure). As a criminal case was pending against the appellant, she could not get the Integrity Certificate within 90 days. She obtained the Integrity Certificate only on 4.8.2000, after the conclusion of the criminal proceedings and submitted it to HUDA on

21.8.2000. As allotment of Plot No. 946 was not confirmed even thereafter, she approached the High Court for relief in Civil Writ Petition No. 11208 of 2003. The High Court dismissed the writ petition on the ground that the appellant, not having produced the Integrity Certificate within 90 days from the date of allotment, was not entitled to the plot. The said order is under challenge in this appeal by special leave.

6. As noticed above, the appellant was allotted plots both under the general category and Government employees quota. The cancellation of allotment under general category, was on the assumption that appellant was allotted plot No.946 (Sector 25) under government employees quota. If appellant was not entitled to allotment under government employees quota, she was entitled to the allotment of Plot No.817 under the general category and that could not have been cancelled. The appellant accepted the cancellation of general category selection of Plot No. 817 (Sector 26), as she believed that she would get Plot No. 946 (Sector 25) under Government employees quota. In fact, as per the rules, only persons who already have a plot in an Urban Estate or a confirmed allotment, are not eligible for a second plot. If the appellant was not eligible for allotment of Plot No. 946 under Government employees quota, she could not have been denied allotment of Plot No. 817 under general category. Be that as it may.

7. On the peculiar facts and circumstances, it may not be just to deny the plot to the appellant, inspite of having been allotted plots, both under the general category and under the Government employees quota. In the circumstances, we are of the view that the HUDA should accept the belated production of Integrity Certificate and confirm the allotment of Plot No. 946 (Sector 25) to the appellant. We may however make it clear that in view of the delay on the part of the appellant in production of Integrity Certificate, HUDA will be entitled to charge for the plot, the price prevailing on 21.8.2000 (the date of production of such certificate) instead of the allotment price applicable in 1994-95.

8. We accordingly allow this appeal and direct the HUDA to allot Plot No. 946 (Sector 25), Panchkula, under the Government employees quota subject to payment by the appellant, the price applicable as on 21.8.2000. This decision shall not be treated as a precedent as the direction is on the

special facts of this case.

_____J.

(R V Raveendran)

New Delhi;
January 30, 2009.

_____J.
(J M Panchal)