

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2929 OF 2008

HARYANA URBAN DEVELOPMENT AUTHORITY & ANR. . . APPELLANT (s)

VERSUS

ADESH AGGARWAL . . . RESPONDENT (s)

O R D E R

This appeal is directed against the judgment and order dated 14th September, 2004 passed by the Punjab and Haryana High Court in RSA No.2194 of 2001.

Respondent had applied for the allotment of a plot in Panipat, Haryana from the discretionary quota available to the Chief Minister of the State. It appears that the application was accepted by the Chief Minister and that was communicated to the appellant (Haryana Urban Development Authority or HUDA). Pursuant thereto, HUDA wrote a letter on 18th May, 1987 to the respondent, which reads as follows:

"Subject: Allotment of a residential plot.

The undersigned has been directed to inform that the Govt. of Haryana has decided to allot you a residing plot measuring 2 kanal in Section 11-12 Part-II at Panipat subject to condition that you do not have any other plot/house in Urban Estate Panipat in your own name, in the name of your spouse or of any of the family members dependant upon you and you have not been allotted at any time a plot of land in any Urban Estate out of Haryana Govt. discretionary quota in your

name/spouse or in the name of family member dependent upon you.

2. You are, therefore, requested to furnish on affidavit duly attested by the Magistrate 1st Class (with true Photostat copy thereof) affirming the above mentioned facts to the undersigned within 15 days positively, so that the offer of plot may be sent to you."

The aforesaid letter was marked as Exhibit P-18 in the Trial Court.

According to the respondent, pursuant to the aforesaid letter, he filed an affidavit with HUDA and a letter was also sent to HUDA on 31st July, 1987 requesting for allotment of residential plot No.1346 measuring 2 kanal in Sector 11-12 of HUDA Phase II in Panipat.

Since no allotment letter was issued and possession of the plot was not given to the respondent, he preferred a suit before the Civil Judge, Senior Division, Panipat in which it was prayed that a mandatory injunction be issued requiring HUDA to allot Plot No.1346 as aforesaid to the respondent. The suit was decreed by the Trial Judge by a judgment and order dated 18th November, 1996.

Feeling aggrieved, HUDA filed an appeal before the Additional District Judge, Panipat and that appeal came to be dismissed by judgment and order dated 30th November, 2000.

Not being satisfied with the dismissal of the appeal, HUDA preferred Regular Second Appeal before the High Court which came to be dismissed by the impugned judgment

and order.

We have been taken through the records of the case by learned counsel for the parties and it is submitted on behalf of the respondent that as there is a concurrent finding of fact by three Courts, this Court should not interfere in the decree passed in favour of the respondent. While this may generally be correct, we find that in the present case the Courts have taken a somewhat perverse view of the evidence on record, particularly the letter dated 18th May, 1987.

We have already reproduced the contents of the letter dated 18th May, 1987 and find that no allotment has been made in favour of the respondent by HUDA. The letter only communicates that it has been communicated that the Government of Haryana has decided to allot a plot, but certain formalities are required to be completed including furnishing of an affidavit by the respondent. It is only thereafter that the offer of a plot would be sent to the respondent. We also find from a perusal of the aforesaid letter that there is no mention of any specific plot, particularly Plot No.1346, allotment of which was claimed by the respondent and which was accepted by all the Courts below.

Be that as it may, the application made by the respondent did not fructify in a letter of allotment being issued to the respondent and in the absence of such a letter of allotment, no right had crystalized in his

favour.

That being the position, in our opinion, the Courts below were in error in granting a mandatory injunction requiring HUDA to allot any plot to the respondent, particularly Plot No.1346 as claimed by the respondent.

We also find that the respondent has not deposited any amount with HUDA nor did HUDA ask for any amount from the respondent.

Under the circumstances, there was no commitment by HUDA for the allotment of a plot. Consequently, the Courts below were in error in passing the decree in favour of the respondent. Accordingly, the decree passed in favour of the respondent is set aside and the suit is dismissed.

The appeal filed by HUDA is allowed. No costs.

.....J.
(MADAN B. LOKUR)

.....J.
(PRAFULLA C. PANT)

NEW DELHI
JANUARY 19, 2017

ITEM NO.105

COURT NO.5

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).2929/2008

HARYANA URBAN DEVELOPMENT AUTHORITY & ANR.

Appellant(s)

VERSUS

ADESH AGGARWAL

Respondent(s)

Date : 19/01/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANTFor Appellant(s) Mr. Rakesh K. Mudgal, AAG
Mr. Kailash C. Mudgal, Adv.
Dr. Monika Gusain, AORFor Respondent(s) Mr. N. Gupta, Adv.
Mr. T. Gupta, Adv.
Mr. Puneet V., Adv.
Mr. S. Jhanwar, Adv.
Ms. S. Janani, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(SANJAY KUMAR-I)
AR-CUM-PS(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)