

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.19870/2017

[@ SLP (C) NO.20432/2012]

M/S VLCC HEALTH CARE LTD.

Appellant

VERSUS

H.U.D.AUTHORITY AND ANR.

Respondents

O R D E R

Leave granted.

The present appeal has been filed against the order dated 30.04.2012 passed by the Division Bench of the Punjab & Haryana High Court in Civil Writ Petition No.1610 of 2008 whereby the orders dated 22.06.2003 and 31.05.2007 passed by the Financial Commissioner and Secretary, Department of Town & Country Planning, Haryana have been quashed.

Briefly stated, the facts giving rise to the present appeal are that Haryana Urban Development Authority (hereinafter 'HUDA') invited applications for allotment of institutional plots in Sector 44, Gurgaon, Haryana. On 21.11.2000, the appellant herein applied for allotment of plot having an area of 1/4th acre in Sector 44, Gurgaon and deposited the earnest money of

Rs.5,98,000/- which was 10 per cent of the total value of the plot. In the draw, the appellant was allotted Plot No.100, Sector-44, Gurgaon as per HUDA Rules for a total price of Rs.59,80,000/- and was asked by the authority vide letter dated 24.04.2001 to pay Rs.8,97,000/- within a period of 30 days from the date of issuance of the allotment letter.

Certain correspondence took place between the parties and accordingly Plot No.100 in Sector-44, Gurgaon was allotted to the appellant. However, the appellant wrote to HUDA requesting the Administrator to allot a corner plot. However, the request was not acceded to by HUDA. The appellant was advised vide letter 10.10.2002 of the Estate Officer of HUDA to file an appeal to the Financial Commissioner and Secretary of the Government of Haryana Town and Country Planning Department.

The appellant filed an appeal on 17.12.2002 and the Financial Commissioner and Secretary of the Government of Haryana Town and Country Planning Department vide order dated 22.06.2003 passed under Section 30 of the HUDA Act directing the respondents to consider grant of an alternative plot, and holding that in the event an alternative plot is not available, the original plot be restored after charging interest on the applicable rates.

The appellant submitted affidavit giving the details of four alternative plots and also stating that if the

alternative plot could not be allotted then they would accept Plot No.100, Sector-44, Gurgaon. However, the Administrator, HUDA vide order dated 13.04.2006 cancelled the allotment.

Various correspondence took place and the matter was ultimately taken up in Revision before the Financial Commissioner & Secretary, who vide order dated 31.05.2007 directed the allotment and handing over possession of the original Plot No.100 in Sector-44, Gurgaon after depositing applicable outstanding dues along with interest as per HUDA policy within 30 days from the date the amount is conveyed to them by the Estate Officer.

The Estate Officer vide letter dated 16.07.2007 directed the appellant to deposit a sum of Rs.1,04,72,050/- which was inclusive of the principal amount and interest as also Rs.26,000/- as extension fee.

In pursuance of the demand letter, the appellant deposited the entire amount on 26.07.2007 and possession receipt/letter was also issued on 31.07.2007, however, physical possession was not given.

Thereafter the respondents preferred a Writ Petition in the Punjab & Haryana High Court challenging the orders dated 22.06.2003 and 31.05.2007 on the ground that the two orders have been passed without the authority of law and ultimately stood cancelled in terms of the condition mentioned in the letter. It may be mentioned here that in

the Writ Petition, the fact of demand of Rs.1,04,72,050/- plus Rs.26,000/- made by the Estate Officer on 16.07.2007 as also the deposit of the said amount by the appellant on 26.07.2007 and possession receipt/letter dated 31.07.2007 were not mentioned. However, in the counter affidavit filed by the appellant in the Writ Petition it was brought to the notice of the Court that order dated 31.05.2007 stood fully complied with and the amounts demanded by HUDA and paid by them had been appropriated by HUDA. Vide Refund Memo dated 14.05.2008, the respondents-HUDA issued a cheque dated 28.04.2008 for the entire amount of Rs.1,04,98,050/- which they had received in the year 2007. However, this offer by the respondents was not accepted by the appellant.

The Division Bench of the High Court by impugned order allowed the Writ Petition and quashed the two orders challenged therein on the ground that the Financial Commissioner had no authority or jurisdiction and the contract did not come into existence.

We have heard Mr. C.U. Singh, learned Senior Counsel appearing for the appellant and Mr. Ajay Bansal, learned Additional Advocate General appearing for the respondent-State. After considering the entire issue in detail, we are of the opinion that the High Court had erred in law in holding that the Financial Commissioner had no jurisdiction to pass the orders dated 31.05.2007

and 22.06.2003 inasmuch as the appeal was preferred by the appellant pursuant to the letter dated 10.10.2007 written by the Estate Officer of the HUDA intimating the appellant to file an appeal before the Financial Commissioner and Secretary to the Government of Haryana, Town and Country Planning Department.

The Financial Commissioner, pursuant to the appeal filed by the appellant had remanded the matter to the Administrator, HUDA for carrying out certain directions. The Administrator, HUDA vide order dated 13.04.2006 cancelled the allotment against which the appellant preferred a Revision before the Financial Commissioner which has been allowed.

From the facts of the case, it appears that the matter relating to the allotment of Plot No.100 in Sector-44, Gurgaon was still under consideration by the authorities. Pursuant to the directions given by the Financial Commissioner in the order dated 31.05.2007 and the demand note issue by the Estate Officer on 16.07.2007 the appellant had deposited a sum of Rs.1,04,98,050 which had been received by the HUDA and possession receipt/letter was also issued on 31.07.2007 and actual physical possession has not been given.

In order to do complete justice between the parties, we feel it fit and proper to direct the appellant to deposit a further sum of Rs.1,50,000,00/- (Rupees One Crore and

Fifty Lakhs) with HUDA within four weeks from today and upon such deposit the HUDA will hand over peaceful and vacant possession of Plot No.100, Sector-44, Gurgaon, Haryana to the appellant and also execute all the necessary documents in favour of the appellant. If the above deposit is not made within four weeks from today, the allotment shall stand cancelled.

It is made clear that this will not be treated as a precedent in other cases as we have passed these directions looking into the special facts and circumstances of this case.

The Civil Appeal is disposed of in the above terms.

.....J.
[R.K. AGRAWAL]

.....J.
[NAVIN SINHA]

NEW DELHI;
NOVEMBER 28, 2017.

ITEM NO.23

COURT NO.8

SECTION IV-B

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.19870/2017

@ Petition for Special Leave to Appeal (C) No.20432/2012

(Arising out of impugned final judgment and order dated 30-04-2012 in CWP No. 1610/2008 passed by the High Court Of Punjab & Haryana At Chandigarh)

M/S VLCC HEALTH CARE LTD.

Petitioner/Appellant

VERSUS

H.U.D.AUTHORITY & ANR.

Respondent(s)

Date : 28-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. C.U. Singh, Sr. Adv.
Mr. Ranjan Kumar Pandey, AOR
Mr. Anshumaan Bahadur, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Anshul Tyagi, Adv.
Mr. Salim Hasan Ansari, Adv.
Mr. Kushank Sindhu, Adv.
Mr. Prithvi Sidhu, Adv.

For Respondent(s) Mr. Ajay Bansal, AAG
Mr. Sanjay Kumar Visen, Adv.
Mrs. Veena Bansal, Adv.
Mr. Gaurav Yadava, Adv.
Mr. Dheeraj Gupta, Adv.
Dr. Kailash Chand, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeal is disposed of in terms of the signed order.

(ASHA SUNDRIYAL)
COURT MASTER

(CHANDER BALA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)