

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 2884 OF 2022**  
**(ARISING OUT OF SLP (CIVIL) NO. 16840 OF 2021)**

THE BANGALORE DEVELOPMENT AUTHORITY

.....APPELLANT(S)

VERSUS

GUNDAPPA R.

.....RESPONDENT(S)

**ORDER**

**HEMANT GUPTA, J.**

1. The challenge in the present appeal is to an order dated 10.11.2020 passed by the Division Bench of the High Court of Karnataka whereby the appeal filed by the appellant against the order of the learned Single Bench dated 15.7.2019 was dismissed.
2. The respondent<sup>1</sup> filed an application on 19.10.1984 with the appellant seeking allotment of a site measuring 40 feet x 60 feet. The writ petitioner was not successful in number of attempts to seek allotment of a site. However, a site bearing No. 918 was allotted by the appellant on 7.4.2003. The writ petitioner had initially paid a part of the sital value, however, the remaining sital value was not deposited. The letter of allotment had the following condition:

“Within 15 days of the receipt of this allotment letter, you will submit a duly sworn affidavit as per the attached form on a 15 Rupee stamp paper along with duly filled additional information form attached herewith, failing which it will be assumed that you

1 For short, the “writ petitioner”

are not interested in this allotment and the allotment is liable to be cancelled without further notice.

The value of the site is Rs.343450/- and deducting the initial deposits made on earlier, the balance amount of Rs.300450/- should be paid within 60 days of the receipt of this allotment. If you fail to pay the balance amount, the allotment will be cancelled without any notice and the deposits will be forfeited.”

3. The said letter was addressed to the writ petitioner on the address mentioned by him in the application form, a photocopy of which has been produced by the appellant. A perusal of the said application further shows that the writ petitioner had applied 9 times earlier for seeking allotment of the site but was unsuccessful. It is to be noted that the writ petitioner did not deposit the amount within the initial time nor addressed any communication to seek extension of time to deposit the balance amount.
4. The writ petitioner was served with a show cause notice on 1.8.2003 that the balance amount has not been paid and the stipulated period of 120 days was over and that there is no provision to accept the balance amount now. Therefore, the allotment was liable to be cancelled for non-payment of balance amount within the stipulated time period. The writ petitioner did not reply to the said show cause notice and ultimately a letter for cancellation of the site was passed on 17.12.2003 and sent to the address mentioned by the writ petitioner.
5. It was 13 years later that the writ petitioner filed a Writ Petition No. 53206 of 2016 challenging the cancellation order dated 17.12.2003. The writ petition was allowed by the learned Single Bench of the High Court on 15.7.2019 though the same was opposed by way of a detailed written statement. The appeal against the said order has remained unsuccessful.

6. Learned counsel for the appellant referred to Rule 13 of the Bangalore Development Authority (Allotment of Sites) Rules, 1984<sup>2</sup> which provides conditions of allotment and sale of site. Rule 13(1) of the said Rules reads as under:

“13. Conditions of allotment and sale of site- The allotment of a site under these rules shall be subject to the following conditions:

(1) The allottee shall, within a period of sixty days from the date of receipt of notice of allotment pay to the Authority, the balance site value deducting the initial deposit. If the balance site value is not paid within a period of sixty days, the Authority may on application of the allottee, extend the time for payment for a further period not exceeding sixty days as a final chance and the allottee shall pay in addition interest of the rate of eighteen per cent on the said amount for the first thirty days of the extended period and at the rate of twenty-one per cent for the next thirty days of the extended period. If the amount is not paid within such extended period also, the registration fee shall be liable to forfeiture and the allotment cancelled without prior intimation:

Provided that where an allottee is a person belonging to the Scheduled Castes, the Scheduled Tribes or the Backward Tribes or the family of a defence personnel killed or disabled during hostilities and whose annual income from all sources does not exceed ' rupees eleven thousand and eight hundred only or belonging to an economically weaker section as notified by the Government from time to time, the balance of the value of the site required to be paid under this sub-rule shall be paid by him without interest, within a period of three years in equal annual installments from the date of receipt of the notice of allotment."

7. It was thus contended that the writ petitioner cannot claim alternative site on payment of balance allotment price along with interest @ 24% per annum, as ordered by the High Court as the time fixed in the Rules had come to an end many years ago.
8. It was the stand of the writ petitioner that at the time of filing the application for allotment of site, he was residing in Bangalore and had

<sup>2</sup> For short, the "Rules"

given the address where he was residing. However, he was transferred from one place to another as he was a Central Government employee. The allotment letter was sent to his Bangalore address though at that time he was transferred to Mysore. Therefore, the allotment letter was not communicated to him. The grievance of the writ petitioner in the writ petition was that the appellant had not tried to serve the allotment letter to him.

9. We have heard learned counsel for the parties and find that the High Court was not justified in directing to issue letter of allotment in lieu of a site which was allotted way back in 2003 and when the writ petitioner had not offered his acceptance or deposited the sital value of the allotted price in terms of the Rules.
10. In ***Chaman Lal Singhal v. Haryana Urban Development Authority & Ors.***<sup>3</sup>, under similar circumstances, in respect of allotment of site under the Haryana Urban Development Authority Act, 1977, the argument raised was that not only there is violation of the statutory provisions but also of the principle of natural justice as no opportunity was given to the allottee before passing an order of cancellation. This Court held as under:

“20. A bare perusal of the aforesaid relevant clauses of the allotment letter would indicate that the balance amount of the cost price i.e. Rs 5,39,484 could be paid either in lump sum without interest within 60 days from the date of issue of allotment letter or in six annual instalments which were recoverable in terms of the schedule given in Clause 6 of the aforesaid allotment letter. Clause 10 provides that in case the instalment which is payable is not paid by the 10th of the month following the month in which it falls due or in the case the additional price is not paid within time, the Estate Officer shall proceed to take action for imposition of penalty and resumption of plot in accordance with the provisions of Section 17 of the Act. Clause 11 of the said terms and conditions also makes a reference of Section 17 of the Act.

21. In our considered opinion the appellant failed to comply with the aforesaid clauses of the letter of allotment and, therefore, his allotment stood cancelled and the earnest money deposited by him could be forfeited by the Authority. The order of cancellation came to be passed by the competent authority after 500 days. Be that as it may, the aforesaid allotment of plot of land in favour of the appellant came to be cancelled because of non-payment of the amount as stipulated in Clause 5 and, therefore, the earnest money deposited by him could be forfeited by the Authority.

22. Since the case of the appellant comes within the ambit of Clauses 4 and 5 of the allotment letter, the provisions of Section 17 of the Act would have no application and would not apply. It is thus established that there was no agreement/contract between the appellant and the respondent Authority and there being no such agreement/contract and because of non-compliance with requirement of Clause 5 the issue with regard to violation of principles of natural justice also would not arise. Therefore, the contentions that provisions of Section 17 of the Act are violated and that there is non-compliance with the principles of natural justice have no merit.”

11. Rule 13(1) of the Rules mandates the allottee to deposit sital value deducting the initial deposit. The appellant could extend time for payment for a further period not exceeding sixty days as a final chance along with additional interest. Since the writ petitioner failed to deposit the amount within the stipulated period, therefore, there is no corresponding obligation on the appellant to allot an alternative site to the writ petitioner. If the writ petitioner was being transferred from place to place, it was his duty to keep the appellant informed about his change of address on which he could be communicated. The appellant had no duty to find out the address of the writ petitioner. The sole duty to communicate the address, his place of posting etc. was on the writ petitioner alone. In the absence of any proof of change of address, the writ petitioner has lost his right of allotment of the said site and also to

claim any alternative site.

12. Learned counsel for the writ petitioner submitted that in fact after the order passed by this Court, the appellant has identified an alternative site. However, the identification of alternative site was in compliance of the direction of the High Court but that would not confer any legal or equitable right as the writ petitioner has lost his right to claim site on the basis of allotment in the year 2003.
13. Consequently, the appeal is allowed. The order passed by the High Court is set aside and the writ petition is dismissed.

.....J.  
**(HEMANT GUPTA)**

.....J.  
**(V. RAMASUBRAMANIAN)**

**NEW DELHI;  
APRIL 11, 2022.**

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

Petition(s) for Special Leave to Appeal (C) No(s). 16840/2021

(Arising out of impugned final judgment and order dated 10-11-2020 in WA No. 45/2020 passed by the High Court of Karnataka at Bengaluru)

THE BANGALORE DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

GUNDAPPA R.

Respondent(s)

(IA No. 31601/2022 - EXEMPTION FROM FILING O.T., IA No. 44796/2022 - EXEMPTION FROM FILING O.T., IA No. 44795/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-04-2022 This matter was called on for hearing on 11.04.2022 and the Reasoned Order is being uploaded today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. S. K. Kulkarni, Adv.  
Mr. M. Gireesh Kumar, Adv.  
Mr. Ankur S. Kulkarni, AOR  
Ms. Uditha Chakravarthy, Adv.

For Respondent(s) Mr. D. Seshadri Naidu, Adv.  
Mr. Pai Amit, AOR  
Ms. Pankhuri Bhardwaj, Adv.  
Ms. Shivali Chaudhary, Adv.  
Mr. Siddharth Chapalgaonkar, Adv.  
Mr. Poornachandiran R., Adv.

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

On 11.04.2022, the following order was passed :-

“Heard the learned counsel for the parties at length.  
Leave granted.

Appeal is allowed.

Reasons to follow.”

The reasoned order is being uploaded today i.e. on 13.04.2022.  
Pending interlocutory application(s), if any, is/are disposed  
of.

(JAYANT KUMAR ARORA)  
COURT MASTER

(RENU BALA GAMBHIR)  
COURT MASTER

(Signed order is placed on the file)



S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

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(RENU BALA GAMBHIR)  
COURT MASTER

