



2025:PHHC:168520-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

103

**CM-14160-CWP-2025 IN/AND
CWP-20837-2015 (O&M).
Date of Decision: 02.12.2025.**

Kiran (minor)

....Petitioner.

VERSUS

Chandigarh Housing Board and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Saurabh Arora, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Parveen Chauhan, Advocate
for respondent No.1-Chandigarh Housing Board.

ANUPINDER SINGH GREWAL, J. (Oral)

CM-1416-CWP-2025

This application is for fixing an early actual date of hearing in the main case.

Heard.

For the reasons stated in the application, the same is allowed and with the consent of the parties, the main case is taken up on Board for hearing today itself.

CWP-20837-2015 (O&M)

The petitioner is seeking a direction to the respondents to allot a flat to her under the Chandigarh Small Flats Scheme, 2006, in lieu of her father who was found eligible for allotment, but unfortunately expired before the allotment.

2. Learned counsel for the petitioner submits that in 2015, when the instant writ petition was filed through her guardian-paternal uncle, the petitioner was a minor aged about 9 years. Father of the petitioner had been found eligible for allotment of a small flat by order of the Permanent Lok Adalat (Public Utility Services), Union Territory, Chandigarh, dated 19.03.2010. However, the father of the petitioner unfortunately expired on 15.02.2013. The mother of the petitioner had also been missing and DDR No.14 dated 20.03.2014 in this regard had been lodged. Therefore, the petitioner, being the sole legal heir of her father, would be entitled to allotment of a small flat.

3. Learned counsel for the respondents submits that although father of the petitioner was found eligible for allotment but the petitioner at that time was minor and there is no provision for allotment of a 'small flat' to a minor-child after the demise of the father. He refers to the noting in the application form, "Annexure R-2," annexed with the written statement on behalf of respondent no.2 to further submit that the name of the mother of the petitioner in the records is reflected as 'Annu Devi', but in the order of the Lok Adalat dated 19.03.2010, reference has been made to the sworn affidavit of the mother of the petitioner, where her name is mentioned as 'Smt. Ram Devi' wherein she has stated that she has no objection to the allotment of the site to her husband. He, therefore, submits that the claim of the petitioner for allotment of flat was rightly declined by the Screening Committee.

4. Heard.

5. The petitioner, who was a minor at the time of filing of the instant petition in the year 2015, has now attained majority. Over the past

decade, she is stated to have been raised by her paternal uncle. The father of the petitioner namely Vir Singh @ Bir Singh, s/o of Arjun Singh, was a resident of Jhuggi No.860, Labour Colony no.5, Burail, Chandigarh, since 1994, which is evident from the copy of the Voter Identity Card. One girl child namely 'Kiran' i.e. the petitioner, was born in May 2006 from the wedlock of Vir Singh @ Bir Singh and Annu Devi. Their names are also reflected in the Ration Card issued by the Chandigarh Administration on 05.10.2010.

5.1. On 06.11.2006, the Chandigarh Small Flats Scheme (hereinafter referred to as the 'Scheme'), was notified for the rehabilitation of *Jhuggi* dwellers. The Chandigarh Administration conducted a door to door survey of the slums and colonies across the city. A bio-metric survey was also conducted by the administration to identify the 'residents' under the said scheme and a slip bearing No.5902 was issued to the father of the petitioner. The *Jhuggis* were subsequently demolished but no flat was allotted to him. Aggrieved thereby, in the year 2010 he filed a claim petition before the Permanent Lok Adalat (Public Utility Services) seeking allotment of a flat. Before the Permanent Lok Adalat, an objection was raised by the Chandigarh Housing Board only to the extent that 'allotment could be made jointly in the name of the couple', and the consent of spouse is essential. In response thereto, the father of the petitioner submitted that his wife had deserted him.

5.2. In the order dated 19.03.2010, the Permanent Lok Adalat had found the father of the petitioner to be eligible for allotment of a small flat under the Chandigarh Small Flats Scheme, as he had produced the voter identity card and the bio metric slip issued by the Estate Office. A photocopy

of the affidavit of Smt Ram Devi (stated to be the mother of the petitioner in the order) was also submitted, wherein she had stated that she had no objection in case a site is allotted to Vir Singh (father of the petitioner). Admittedly, despite orders of the Permanent Lok Adalat, which attained finality, no flat was allotted to Vir Singh.

5.3. Unfortunately, father of the petitioner expired on 15.02.2013. It is also undisputed that, mother of the petitioner has been missing and a DDR No.13 dated 20.03.2014 had been lodged in this regard. In 2013, the petitioner filed an application before the Permanent Lok Adalat seeking allotment of a flat under the scheme, as her deceased father had been earlier found to be eligible under the Scheme. However, in the order of the Lok Adalat dated 08.05.2014, the Estate Officer raised an objection that there was no provision for allotment of a flat to a minor in lieu of her deceased parent. Nevertheless the Permanent Lok Adalat directed that her application be forwarded to the Estate Officer for consideration of her case.

5.4. Consequently, her case was placed before the Screening Committee for consideration, but she was found ineligible on two grounds; firstly, the name of her father did not appear in the 2013 Voter List and secondly, while the documents reflected the name of the petitioner's mother as 'Annu Devi', the order of the Lok Adalat dated 19.03.2010 recorded her name as 'Smt. Ram Devi'. The petitioner filed another application before the Permanent Lok Adalat seeking allotment of a flat in her name under the Scheme. Consequently, vide order dated 10.06.2015, the application was dismissed by the Permanent Lok Adalat.

6. Aggrieved by the orders of the Permanent Lok Adalat, the minor-petitioner was constrained to approach this Court by filing the instant writ petition. We have perused the material on record and following objections have been raised to the petitioner's claim for allotment of a flat:

- i. That the father of the petitioner was not eligible for allotment under the Chandigarh Small Flats Scheme as his name did not find mention in the 2013 Voter List;
- ii. The affidavit before the Permanent Lok Adalat is not of the mother of the petitioner and therefore, the Permanent Lok Adalat was misled.
- iii. The petitioner is ineligible as her parents did not fulfill the eligibility criteria, and there is no provision in the policy to make an allotment in favour of a minor.

7. As per the Chandigarh Small Flats Scheme, 2006, a "Recognized Resident" means a resident of a notified colony whose name is included both in the voter list of 2006 and in the Bio Metric Survey conducted by the Chandigarh Administration in the year 2006 while continuously residing in the colony. Indisputably, the name of the father of the petitioner is reflected both in the bio-metric survey (Folio no. 5902) which was conducted by the Chandigarh Administration in the year 2006 as well as in the Voter List of the year 2006 (at Sr. No.671/302-06). It is trite that at the time of scrutiny, the respondents ought to have determined his eligibility either when he had applied for allotment (in the year 2008) or when the order of the Lok Adalat was passed (in the year 2010). Therefore, they had incorrectly rejected his case on the ground that his name did not appear in the 2013 Voter List. However, even otherwise, a perusal of Annexure P-7 (which is an extract of the voter list of Ward No.308, Chandigarh for the year 2013) reveals that the

name of 'Vir Singh, R/o #860/1, Voter Card No.CH/01/000/1182155', is reflected at Serial no. 231. We, therefore, hold that the father of the petitioner was a "recognized resident" and was eligible for allotment of a flat under the Chandigarh Small Flats Scheme, 2006.

8. Insofar as the objection that the name of the mother of the petitioner is different in the affidavit, is concerned, we are of the opinion that it is of little or no consequence. In the affidavit of one 'Ram Devi. wife of Ram Khilon', it is simply stated that she had mistakenly signed in place of Vir Singh at the time of the visit of the officials of the Estate Office. Nowhere, does the affidavit state that she is wife of Vir Singh. It is also not in dispute that mother of the petitioner had deserted her father during his lifetime and she was missing since 2014, which is evident from the DDR lodged in March, 2014. Further, it is not the case of the respondents that the mother has been allotted a flat in lieu of the father and, therefore, the petitioner cannot be allotted a flat.

9. We shall now deal with submission of learned counsel for the respondents that there is no provision for allotment of an alternative flat in favour of a minor where the deceased parent was found to be eligible, particularly when the minor does not meet the criteria of a "recognised resident" as laid down in Clause 3(g) of the said scheme and the proviso thereto. We, therefore, deem it appropriate to reproduce sub-clauses (c) and (g) of Clause 3 and Clause 6 of the Chandigarh Small Flats Scheme, 2006, which are extracted hereinafter:-

"(c) "Family" means a family consisting of a person, his or her spouse, children and parents residing with him and it includes

earning sons and daughters. Married and earning son above the age of eighteen, shall be considered as a separate family unit provided that such a person was living in a separate habitation as identified during the Bio Metric Survey.

Xxx xxx

(g) "Recognized Resident" means a resident of a Notified colony whose name is included both in the voter list of 2006 as well as in the Bio Metric Survey conducted by the Chandigarh Administration in the year 2006 and is continuously residing in the colony.

Provided that in case of the demise of the Recognized Resident one member of his family, as defined above, who fulfills the conditions of the Recognized Resident will be eligible for being a licensee.

xxx xxx

"6. (a) With respect to every block of a Notified Colony selected for clearance, allotment of a flat shall be made as under:

(i) All persons whose names appear in the biometric survey and voter list as on 01.01.2006 shall be eligible for allotment of a flat on license basis. The name of the person should also appear in the latest voter list of the year in which allotment is to be made.

Xxx xxx."

10. It is manifest from a bare reading of the proviso to Clause 3(g) that in the event of the demise of the 'Recognized Resident', one member of his family as defined in clause(c), who satisfies the criteria of a "recognized resident" will be eligible for being a licensee. It is true that the petitioner was a minor and, therefore, would be ineligible if a strict interpretation is adopted.

10.1. The overarching purpose of the Chandigarh Small Flats Scheme, 2006 is to rehabilitate poor *Jhuggi* dwellers who belong to the ultra-marginalised sections of society, secure their fundamental right to shelter by

providing them a dwelling unit and ensure the equitable distribution of resources by providing 'one family' only one flat. In doing so, the Scheme ensures the full realisation of the Constitutional guarantee of right to life. The object behind the proviso is to ensure that allotment is restricted to one family member on the demise of an eligible person/recognised resident. It is trite that a scheme framed by the authorities cannot visualise every uncertainty and provide for every eventuality. In the instant case, an extraordinary situation of hardship has arisen, which the scheme did not contemplate, i.e., wherein after the death of the father, who was the recognised resident, there is a sole legal heir who is an orphan, a minor and has been rendered homeless.

10.2. The Constitution is founded on the principle that the State must function as a welfare state and in light of Article 21 which guarantees the Right to Life which further includes right to shelter, it is the sacred duty of the Constitutional Courts to grant succour and ameliorate the plight of the petitioner. The Supreme Court in the case of ***Chameli Singh v. State of U.P., (1996) 2 SCC 549***, had held that the 'Right to Shelter' is an extension of the Right to life, and it is incumbent upon the State to integrate the marginalized sections of society into the mainstream by providing them appropriate facilities and opportunities. The relevant extract of the judgement is reproduced hereinbelow:-

“8. In any organised society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the right to food,

water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want of decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself. To bring the Dalits and Tribes into the mainstream of

national life, providing these facilities and opportunities to them is the duty of the State as fundamental to their basic human and constitutional rights.”

11. Resultantly, while evaluating the applications of the marginalised sections of society for their rehabilitation in furtherance of their right to shelter, a more holistic and liberal view ought to be taken by the Constitutional Court, instead of a hyper-technical view which would defeat the very purpose of the scheme.

12. Admittedly, when the bio-metric survey was conducted in March 2006, the petitioner was in the womb of her mother. Obviously her name would not find place in the electoral rolls at the relevant time as she was a minor and attained majority in 2024. We therefore, do not accept the submission of the respondents that as the name of the petitioner did not figure in the survey and voter lists as required by the Scheme, she is not a “recognized resident”. Similarly the contention that there is no provision for allotment of a flat to minors cannot be accepted. The father of the petitioner had been found eligible for allotment of the small flat when she was a minor and after his demise the right of the petitioner for allotment of flat being the sole legal heir cannot be defeated. We have no hesitation to hold that the petitioner, who is akin to an orphan, would be entitled to allotment of flat in lieu of her father, who was found eligible for allotment.

13. Consequently, the petition is allowed. The impugned order is set aside and the respondents are directed to allot the petitioner a small flat under the afore-noted Scheme, within a period of 15 days from the date of receipt of certified copy of this order.

14. Before parting with this judgement, we deem it appropriate to direct the authorities to consider recognizing the rights of a minor for allotment in the event of the demise of 'recognized resident'.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.12.2025

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No