

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH***

CWP No. 4439 of 2000

Date of Decision:-04.02.2015

Chaman Lal

...Petitioner

Versus

The Administrator, New Mandi Townships of Punjab

...Respondent

***CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA***

Present:- Mr. R.K. Girdhar, Advocate
for the petitioner.

Mr. Manoj Bajaj, Additional A.G., Punjab.

HEMANT GUPTA J.(Oral)

The petitioner has sought a writ in the nature of mandamus directing the respondent to issue "No Dues Certificate" and to transfer the title of Plot No.103, New Grain Market, Abohar in favour of petitioner in terms of order dated 18.12.1996 passed by the Commissioner, Ferozepur Division, Ferozepur.

The petitioner was the highest bidder of a plot No.103, New Grain Market, Abohar in an open auction conducted by the respondents on 14.12.1973. Since the petitioner failed to make the payment of installments, the order of resuming the site in question was passed on 14.10.1976 by the Administrator.

The petitioner did not challenge the said order for almost 20 years but filed an appeal in the year 1996. The learned Commissioner set

aside the order of resumption passed by the Administrator, New Mandi Township, Punjab. It was noticed that the petitioner came to know about the impugned order on 5.11.1991. The learned Commissioner entertained the appeal for the reason that from that date the appeal was within time. While allowing the appeal, an opportunity was given to the petitioner to make payment of the entire amount along with interest @ 15% up-to-date interest.

The said order passed by the Commissioner was challenged by the New Mandi Township before the Financial Commissioner Appeals but the same was dismissed being barred by limitation. Admittedly, no further proceedings have been taken by the respondents against the said order passed.

In reply to the writ petition, it has been pointed out that the plot in question was sold to one Sham Behari son of Nand Lal and others, in an open auction by the respondent on 23.5.1991 and that the purchasers have deposited all the installments and the plot stand transferred in their names on 6.2.1997. The said purchasers have not been impleaded as party either before the Commissioner or before this Court.

We have heard learned counsel for the parties and find that the entertainment of an appeal after 20 years of the passing of the resumption order and on the assumed ground that the petitioner came to know about the order of resumption on 5.11.1991 is patently erroneous and affects the rights of the third party, who was not before the Commissioner. Admittedly, possession was not delivered to the petitioner after he gave highest bid. Thereafter, New Mandi Township re-auctioned the plot in the year 1991. Restoration of the plot in these facts would be wholly unwarranted and unjust, affecting rights of the third party, who are not party before this Court as well.

We do not find that no relief should be granted to the petitioner on the basis of an order passed by the Commissioner, which is erroneous

and causing manifest unjust to the parties who are not parties in these proceedings.

Consequently, the writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

February 04, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE