

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

Date of Decision: 16.01.2015

Civil Writ Petition No.24250 of 2014

Harjinder Kaur Jagdev

...Petitioner

Versus

State of Punjab & others

...Respondents

Civil Writ Petition No.24262 of 2014

Harjinder Kaur Jagdev

...Petitioner

Versus

State of Punjab & others

...Respondents

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

Present: Mr. A.A.Pathak, Advocate for the petitioner.

HEMANT GUPTA, J. (ORAL)

This order shall dispose of aforementioned two writ petitions having similar facts i.e. CWP No.24250 of 2014 and CWP No.24262 of 2014 relating to plot Nos.567 measuring 256.67 sq. yards & 2115-C measuring 306.25 sq. yards situated at Phase-II, Urban Estate, Patiala respectively, challenging the order passed by the Secretary to the Government of Punjab, Department of Housing and Urban Development, Punjab - respondent No.3 on 04.04.2014 dismissing the revisions filed by the petitioner against the orders of resumption in respect of the said plots.

Manohar Singh, the predecessor-in-interest of the present petitioner, participated in an auction on 28.02.1997 in respect of plot Nos.567 and 2115-C situated at Phase-II, Urban Estate, Patiala. Manohar

Singh was successful in the said auction. He had deposited 10% of the bid amount and later 15% so as to constitute 25% of the bid amount. On deposit of such amount, letters of allotment in respect of both the plots in question were issued to Manohar Singh on 09.10.1997. The predecessor-in-interest of the petitioner opted to make the balance payment in installments as per the terms & conditions of the allotment. However, the predecessor-in-interest of the petitioner failed to make the payment of installments, which led to resumption of the plots i.e. plot Nos.567 and 2115-C on 25.06.2003 and 24.05.2000 respectively.

It was on 24.12.2007 i.e. more than 4½ years in respect of plot No.567 and more than 7 years in respect of plot No.2115-C, appeals were filed by Manohar Singh before the Administrator. Such appeals were dismissed vide order dated 07.01.2008. The further revision filed by Manohar Singh on 12.02.2008 was allowed by the Additional Secretary to the Government of Punjab, Department of Housing and Urban Development, Chandigarh on 10.05.2011 after allowing an application to bring on record the legal representatives of Manohar Lal. However, the said order was set aside by this Court in CWP No.543 of 2012 and CWP No.544 of 2012 on 26.11.2012 and the matter was remitted to the Additional Secretary to Government of Punjab, Department of Housing and Urban Development for fresh decision after hearing both the parties in accordance with law. It is, thereafter, the revision has been dismissed on 04.04.2014 vide order impugned in the present writ petitions.

The sole argument raised by the learned counsel for the petitioner is that the petitioner is ready and willing to make the entire payment of the sale consideration and that Manohar Singh, the predecessor-in-interest of the petitioner, could not make the payment of installments

because he, as a Non Resident Indian, went to England and was prevented by sufficient cause in not making the payments.

We have heard learned counsel for the petitioner at length and find no merit in the present writ petitions. Condition No.3 in the letter of allotment is that the balance 75% of the amount is payable in six equated yearly installments alongwith interest at the rate of 15% per annum. It is also stipulated that no separate notice will be sent for the payment of installments. The predecessor-in-interest of the petitioner has admittedly not paid the single installment, which led to resumption of the plots in question. It was on 24.12.2007 i.e. almost more than 4½ years in respect of plot No.567 and more than 7 years in respect of plot No.2115-C, appeals were filed by the predecessor-in-interest of the petitioner. It has also come on record that the refund amount was offered to the allottee through public notice, but still the petitioner has not contacted the Estate Office. Even if, Manohar Singh, the predecessor-in-interest of the petitioner, has gone abroad, it was his responsibility to deposit the amount of installments in time, he being the purchaser in an open auction. It was his responsibility to make the payment of installments with due diligence. Not only Manohar Singh, the predecessor-in-interest of the petitioner, defaulted in making the yearly installments, he also slept over his rights to dispute the orders of resumption for almost more than 4½ years in respect of plot No.567 and more than 7 years in respect of plot No.2115-C.

The offer of balance payment before the Revisional Authority is meaningless having made after long lapse of time. Such offer is devoid of bona fide. Still further, the order passed by the Additional Secretary to Government of Punjab on 10.05.2011 has since been set aside by the writ Court, therefore, the petitioner cannot be permitted to rely upon such an

order passed. It may be noticed that after the resumption in the year 2003, plot No.567, Phase-II, Urban Estate, Patiala stands re-allotted to one Shri Pal Singh, who after constructing a house is living therein.

In view of the above, we do not find that there is any error in the orders of resumption passed by the Estate Officer and maintained by the Appellate and Revisional Authorities. Consequently, both the writ petitions are dismissed.

(HEMANT GUPTA)
JUDGE

(HARI PAL VERMA)
JUDGE

16.01.2015
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