

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

CWP No.1500 of 2016

Date of Decision :25.1.2016

Rajesh Kumar and others

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present: Mr. Adarsh Jain, Advocate
for the petitioners.

.....

MAHESH GROVER.J.

The petitioners impugn the orders Annexures P-1 and P-2 by which the auction in favour of the petitioners which took place in 1968 and confirmed on 5.3.1969 has been set aside.

The undisputed facts are that the petitioners participated in open auction of the disputed land comprised in khasra Nos.170//21,22,181//1/1,2/2 total measuring 26 kanals 15 marlas situated in the revenue estate of Siwan. The auction was confirmed on 5.3.1969. This land, however, was in possession of the private respondents who asserted their right of possession and title on the ground of uninterrupted possession entitling them to allotment on the basis of the policy of the State Government. The private respondents continued to assert their right and were successful in LPA No.48 of 2007 titled 'Rajinder Singh v. State',

decided on 3.9.2008. It is as a consequence thereto that the auction of 1968 in favour of the petitioners has been set aside vide order dated 26.8.2010.

Learned counsel for the petitioners contends that once an auction was there in their favour, the private respondents would have no right and the State would have no authority to allot this land to anyone else. It has further been contended that the petitioners were never impleaded as a party in the writ proceedings by the private respondents and the factum of auction in their favour was cleverly kept away both by the private respondents and the State. It is thus contended that the rights of the petitioners have been taken away and they would be entitled to the land which they have purchased in the auction or in the alternative they are entitled to some other land in lieu of the land purchased by them in auction.

Evidently, the petitioners never raised this issue to assert their right of possession pursuant to the auction since 1969. Possession of the private respondents was to the knowledge of the petitioners. Therefore, non-assertion of their right for possession assumes a great significance. The respondents in turn, who were in possession, continued to assert their right to ownership on the basis of the policy of the State enabling unauthorised occupants also to the ownership subject to

terms of sale prescribed in the policy. At no stage of proceedings the petitioners ever attempted to convert the favourable auction process into possession. It is thus not believable that the petitioners had no knowledge of the proceedings even if they were not impleaded as a party. Apart from this, even if the best case of the petitioners is taken, the order cancelling their auction was passed in the year 2010 and the petitioners are approaching this Court after a lapse of six years. Clearly the writ petition is hit by delay and laches and laxity on the part of the petitioners themselves who chose not to assert their right to possession since 1969.

Finding that the order of 2010 is now being challenged, there would be no redeeming feature in favour of the petitioners. The petition is thus dismissed. However, the petitioners would be at liberty to pursue their remedy with the official respondents for return of the auction amount or any other prayer for possession/allotment of alternate land in case the same is permissible in law.

25.1.2016
dss

(MAHESH GROVER)
JUDGE