

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203

CWP No.19169 of 2014

Date of Decision:25.04.2016

Balbir Singh

....petitioner

Versus

State of Haryana and others

.....respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2.To be referred to the Reporters or not?**
- 3.Whether the judgment should be reported in the Digest?**

Present: Mr.J.S.Dahiya, Advocate
for the petitioner

Mr.R.K.S.Brar, Addl.AG Haryana

Mr.Bhupeshwar Jaswal, Advocate
for respondents No.2 to 4

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioner has challenged the order of the revisional authority dismissing the revision petition against the order of the Estate Officer, Faridabad, dated 30.04.2002, resuming the booth allotted in his favour.

It is not necessary to set out the litigation between the parties, which included a suit filed by the petitioner. The trial Court decreed the suit. The respondents filed an appeal which was allowed on the ground that the suit is not maintainable. In the second appeal, this Court granted liberty to the petitioner to file a revision petition. It is, in these circumstances, that the impugned order has been passed.

As is evident from the impugned order itself, the petitioner's

Advocate was not present at the hearing. The matter was, therefore, decided

in the absence of the petitioner and his Advocate. The order which is in considerable detail, refers to various facts. The petitioner, however, disputes the findings. According to the petitioner, he has paid the entire amount due, along with the interest, as directed by the Civil Court. The proceedings before the Civil Court having been held to be without jurisdiction, the order cannot bind the respondents. The petitioner would have to pay the amount as per the letter of allotment.

The petitioner remained absent as his Advocate was unwell on account of being involved in an accident. As there are several facts, especially regarding the dates of payment, the ends of justice would be met only upon the petitioner's being afforded an opportunity of being heard and producing all the facts.

By our order dated 23.12.2015, we had observed that instructions regarding payment had not been obtained by the counsel for the respondents. We further directed the respondents to furnish the particulars, failing which the respondents were put to notice that an adverse inference may be drawn against them. Even today, the account statement has been handed over but the calculations are not there. We, however, do not intend to draw any adverse inference as this is a challenge to an order passed in revision.

The petition is therefore disposed of by quashing the impugned order. The revisional authority is directed to pass a fresh order after affording the petitioner an opportunity of being heard. The petitioner, in the first instance, shall appear before the Appellate Authority, on 02.05.2016 at 11.00 AM and, thereafter, as directed by the revisional authority. It is clarified that we have not held that even if the entire amount has been paid, the order of

resumption is to be set aside. It is, however, a factor that the revisional

authority would keep in view, while exercising its discretion, whether to uphold the order of resumption or not.

**(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

April 25, 2016
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