

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

CWP No. 18618 of 2016

DATE OF DECISION : 08.09.2016

Ram Chand

.... PETITIONER

Versus

Chandigarh Administration and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Aman Bahri, Advocate,  
for the petitioner.

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**RAMENDRA JAIN, J.**

1. In an open auction held on 25.06.2001, the petitioner was allotted Booth No. 177, Motor Market, Sector 38 (West), Chandigarh, vide allotment letter dated 07.03.2003, on lease hold basis for a period of 99 years, at a premium of ₹ 2,84,430/-. Accordingly, the petitioner deposited 25% of the premium amount, i.e. ₹ 71,108/-, but defaulted in making payment of instalments of the remaining 75% amount. Consequently, he was served with a notice dated 29.11.2007, by the Estate Officer, Union Territory, Chandigarh (respondent No.4 herein), to pay the due amount of instalments, ground rent and interest for the defaulted period. Still the petitioner did not make any payment. Hence, vide order dated 07.04.2009, respondent No.4 imposed penalty upon him at the rate of 10% on due instalments and 100% on due amount of ground rent. The petitioner still turned a deaf ear to this order. Hence, finding no option, vide order dated

23.09.2009 (Annexure P-1) respondent No.4 cancelled lease of the aforesaid booth in favour of the petitioner. He filed appeal against the said order of respondent No.4 before respondent No.3, which was accepted vide order dated 02.03.2010 (Annexure P-2), whereby while setting aside the aforesaid order dated 23.09.2009 passed by respondent No.4, the petitioner was directed to deposit the due amount of instalments, ground rent and interest thereon within a period of two months from the date of the order. The petitioner did not comply with the said order too and preferred a revision petition, which was dismissed by respondent No.2 vide order dated 29.02.2012 (Annexure P-3). The petition preferred by the petitioner seeking review of the aforesaid order of respondent No.2 was also dismissed vide order dated 18.10.2012 (Annexure P-4). Thereafter, in a proceeding under Section 5 (i) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act'), vide order dated 17.06.2013 (Annexure P-5) passed by respondent No.5, eviction of the petitioner was ordered with a direction to him to vacate the said booth. His appeal against the said eviction order was dismissed for want of his appearance by respondent No.6 vide order dated 17.02.2016 (Annexure P-6). Finally, warrant of possession of the aforesaid booth No. 177 was issued against the petitioner on 18.04.2016, and after taking possession, the aforesaid booth was sealed.

2. Hence, by way of the present writ petition under Articles 226/ 227 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of certiorari for quashing the orders dated 23.09.2009, 02.03.2010, 29.02.2012, 18.10.2012, 17.06.2013 and 17.02.2016

(Annexures P-1 to P-6) rendered by the respondents cancelling the allotment of booth No. 177, Motor Market, Sector 38 (West), Chandigarh, and passing eviction order against him. Further issuance of a writ in the nature of mandamus directing the respondents to restore the allotment of the aforesaid booth to the petitioner has also been sought, on the ground that now he is ready and willing to make payment of the entire dues, which may be approximately ₹ 10 lacs , and to show his bonafide, he has already prepared a demand draft dated 13.07.2016 (Annexure P-7) in the sum of ₹ 7 lacs in favour of the Estate Officer, Union Territory, Chandigarh.

3. Learned counsel for the petitioner contended that after allotment of booth No. 177, the petitioner deposited ₹ 71,108/-, being 25% of the premium amount of ₹ 2,84,430/-, within the permissible time of 30 days of the offer of allotment. The balance 75% of the premium amount was to be paid in three annual equated instalments of ₹ 85,780/- each, including interest, falling due on 07.03.2003, 07.03.2004 and 07.03.2005, which he could not pay being a poor person earning his livelihood through his labour at the said booth, and because of financial constraints on account of :

- (a) adverse family circumstances; and
- (b) set back in his business which could not thrive at the new premises being located at a dissolute place.

He further contended that non-payment of 75% of the premium amount was not willful, rather was on account of the aforesaid circumstances. The petitioner has now arranged the funds by borrowing money from his relatives, besides his own sources, and is ready to pay the entire outstanding amount along with interest within a period of three months. To show his

bona fide, he has already got prepared a demand draft of ₹ 7 lacs in favour of the Estate Officer, Union Territory, Chandigarh.

4. After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find that the present writ petition is completely devoid of any merit for the reasons to follow :-

- (i) Undisputedly, the petitioner did not pay even a single penny towards 75% of the premium amount, payable in three equal annual instalments of ₹ 85,780/- each, including interest, payable on 07.03.2003, 07.03.2004 and 07.03.2005. He also did not pay the cost of superstructure to the Chandigarh Housing Board in three equal instalments of ₹ 24,948/- each.
- (ii) It is also not disputed that after cancellation of the lease of the booth in favour of the petitioner by respondent No.4 on 23.09.2009, respondent No.3 vide order dated 02.03.2010, while accepting his appeal, granted two months' time to him to deposit the entire due amount along with interest and ground rent, but the petitioner turned a deaf ear to the said order in his favour. Thereafter, his revision petition and the review petition were dismissed in the year 2012, and his eviction from the booth in question was ordered under Section 5 (i) of the Act vide order dated 17.06.2013. His appeal against the said order was also dismissed on 17.02.2016, and thereafter, possession of the booth has also been taken over.
- (iii) Since the petitioner himself did not avail the opportunity of depositing the entire dues along with interest and ground rent within two months granted to him by the Appellate Authority on 02.03.2010, therefore, he is not entitled to any indulgence by this court. We have gone through the impugned orders and do not find any illegality or perversity in the same, because it is evident from the same that respondent No.4 afforded number of opportunities to the petitioner to deposit the entire outstanding amount, but he failed to avail the same. That apart, respondent No.3 also granted opportunity to the petitioner to pay the entire due amount, but he again failed to take benefit of the

opportunity. He has not been able to give any cogent reason for not depositing the due amount within time, or even for a period of more than six years after the grant of opportunity to deposit the same vide order dated 02.03.2010. Hence, we are not inclined to interfere with the impugned orders.

5. Petition is, accordingly, dismissed.

**( RAMENDRA JAIN )  
JUDGE**

September 08, 2016  
ndj

**( AJAY KUMAR MITTAL )  
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes