

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

CWP No. 22245 of 2016

DATE OF DECISION : 25.10.2016

Badri Tiwari

.... PETITIONER

Versus

Union Territory, Chandigarh and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Gurcharan Singh, Advocate,
for the petitioner.

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RAMENDRA JAIN, J.

1. Pursuant to the “Allotment/Transfer of Built-up Booths in any Sector on Lease/Hire Purchase Basis in Chandigarh Rules, 1991” (hereinafter referred to as ‘the Rules’), a draw of lots was held on 23.03.2006 for allotment of built up platforms/booths in Sector 26 (Grain Market), Chandigarh, to the registered hand-cart/hawker licence holders. The petitioner was successful in the said draw. Consequently, a letter of intent dated 30.05.2006 (Annexure P-1) was issued by respondent No.1 to the petitioner, intending to allot him Platform/Booth No. 38 in Sector 26 (Grain market), Chandigarh. Accordingly, vide allotment letter dated 28.9.2006 (Annexure P-2), the aforesaid booth was allotted to the petitioner on lease hold basis, on the terms and conditions mentioned therein. However, vide order dated 04.02.2015 (Annexure P-4) passed by respondent No.3, lease of the said built up booth in favour of the petitioner

was cancelled, due to non-execution of the lease deed by him. The petitioner challenged the said order by way of appeal (Annexure P-5) before respondent No.2, but he remained unsuccessful as his appeal was dismissed vide order dated 25.4.2016 (Annexure P-6). Feeling aggrieved against the said order, the petitioner filed revision petition (Annexure P-7), which too resulted into dismissal by respondent No.1 vide order dated 27.09.2016 (Annexure P-8).

2. Hence, by way of 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 order dated 04.02.2015 (Annexure P-4) passed by respondent No.3 cancelling allotment of the booth in question in his favour; as well as the orders dated 25.04.2016 and 27.09.2016 (Anexures P-6 and P-8) passed by respondents No.2 and 1, dismissing his appeal and revision, respectively. The impugned orders have been challenged on the following grounds :-

- (i) The impugned orders have been passed by the authorities below without properly appreciating the facts and circumstances of the case, which are wholly illegal and arbitrary being passed against the provisions of the Chandigarh Lease Hold of Sites and Building Rules, 1973, and Capital of Punjab (Development and Regulation) Act, 1952, and are against the principles of natural justice, equity and good conscience;
- (ii) Respondent No.3 did not consider the fact that the petitioner had already submitted lease deed, duly executed by him, for acceptance, before receiving the impugned order dated 04.02.2015. No opportunity of hearing was afforded to the petitioner by respondent No.3 before cancellation of his lease deed on account of non-execution of the lease deed.

- (iii) The petitioner also deposited Banker Cheque dated 17.05.2016 (Anexure P-9) for ₹ 2,50,000/-, with respondent No.2, showing his bonafide. Thus, lease in favour of the petitioner should not have been cancelled by respondent No.3 and his appeal was liable to be accepted by respondent No.2;
 - (iv) Petitioner is a very poor person and due to his poor health, he could not run his business properly and was, therefore, unable to pay dues timely.
3. After hearing learned counsel for the petitioner, we do not find any merit in the instant writ petition.
4. Admittedly, the petitioner was allotted the booth in the year 2006 vide allotment letter dated 28.09.2006 (Annexure P-2) on the terms and conditions mentioned therein. One of the express conditions in the allotment letter was that the allottee shall execute a lease deed after the expiry of one month from the date of allotment. Rule 14 (1) of Lease Hold of Sites and Building Rules, 1973, also provides that the lessee is bound to execute a lease deed in Form B & C within 6 months from the date of allotment. The petitioner remained silent for 10 years and failed to execute the lease deed. He was even served with a show cause notice dated 27.12.2013 by respondent No.3. Still he did not execute the lease deed. Thus, the petitioner was afforded sufficient opportunities, but he failed to execute the lease deed. Even he did not deposit the due amount of premium, in compliance with the terms and conditions of the allotment letter. In the impugned order dated 25.04.2016 (Annexure P-6), it has been specifically mentioned that out of 48 equated instalments, he deposited only 4 instalments. Thus, the petitioner is enjoying the fruits of the site in question without making payment of the due instalments. The petitioner has simply

taken the stand that he submitted the lease deed, duly executed by him, for acceptance, before receiving the impugned order dated 04.02.2015. He has not disclosed a specific date, on which the lease deed was submitted. No documentary proof in this regard has been produced. Thus, it cannot be said that the alleged lease deed was submitted by the petitioner before respondent No.3 prior to passing of the impugned order. Hence, we do not find any illegality or perversity in the impugned orders passed by respondents No.3, 2 and 1.

5. Dismissed.

**(RAMENDRA JAIN)
JUDGE**

October 25, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes