

CWP No.22710 of 2016

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

CWP No.22710 of 2016
Date of decision: 04.11.2016

Milkha Singh

..... Petitioner

Versus

Punjab Mandi Board and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. K.S. Rekhi, Advocate, for the petitioner.

RAMENDRA JAIN, J.

Petitioner was allotted plot No.511, Mandi Bhagatanwalla, Amritsar City, vide allotment letter dated 09.03.2007 (Annexure P-1). As per allotment letter, total price of the said plot was fixed at ₹ 21,60,000/-, out of which a sum of ₹ 5,50,000/- was paid by the petitioner and balance amount of ₹ 16,10,000/- was to be paid in six instalments. However, the petitioner failed to pay the balance amount of ₹ 16,10,000/- on account of *inter se* litigation between the petitioner and other legal heirs upon the death of his father. Consequently, aforesaid plot of the petitioner was ordered to be resumed vide order dated 08.09.2014 (Annexure P-2). Against the order dated 08.09.2014, petitioner filed an appeal before the Secretary, Punjab Mandi Board. During the pendency of appeal, petitioner was allowed to deposit the balance amount. However, petitioner failed to deposit the balance amount, therefore, the appeal was dismissed vide order dated 25.02.2015 (Annexure P-3).

2. Hence, by way of present writ petition filed under Articles

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226/227 of the Constitution of India, petitioner has sought issuance of writ in the nature of *certiorari* for quashing the order dated 08.09.2014 (Annexure P-2) passed by respondent No.3 whereby plot of the petitioner has been ordered to be resumed and the order dated 25.02.2015 (Annexure P-3) passed by respondent No.2, whereby appeal filed by the petitioner has been dismissed.

3. Learned counsel for the petitioner contended that petitioner is ready and willing to make the payment of entire balance amount of ₹ 16,10,000/- but at prevailing rate of interest of nationalized bank, which is approximately 9.75% per annum. Learned counsel for the petitioner further contended that charging of interest at the rate of 24% per annum by the respondents as per Clause 5 of the allotment letter is wrong, illegal and arbitrary being unilateral in nature and thus the same may kindly be quashed.

4. After going through the record and giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find that this writ petition is completely devoid of any merit for the reasons to follow.

5. Undisputedly, petitioner did not make the payment of balance amount of ₹ 16,10,000/- after 2007 till date. Consequently, plot of the petitioner was ordered to be resumed vide order dated 08.09.2014 (Annexure P-2). Against the order dated 08.09.2014, petitioner preferred an appeal before the Appellate Authority, which was dismissed vide order dated 25.02.2015 (Annexure P-3). The observations of the Appellate Authority given in para No.5 of the order dated 25.02.2015 (Annexure P-3)

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are reproduced hereinbelow for ready reference: -

“I have heard both the parties at length and also have gone through the record available on file carefully. It is an admitted fact that appellant did not deposit the 75% amount of sale consideration. It is also admitted fact that respondent gave number of opportunities to the appellant for depositing the balance 75% amount before passing the resumption order on dated 08.09.2014. During the course of hearing on 07.01.2015 learned counsel for appellant agreed that the appellant is ready to deposit the balance amount within one month if it is recalculated. The respondent recalculated the balancing amount and gave the details to the appellant on 21.01.2015. Thereafter, the appellant neither appeared nor deposited the recalculated amount to the Estate Officer. Thus it is clear that appellant did not want to peruse the case further. I do not find any infirmity, legal or procedural in the passing of the impugned order. A fresh opportunity was granted by this court to the appellant to deposit the due amount but he failed. The respondent Estate Officer has rightly resumed the plot as per the provisions of the Allotment Rules.”

6. Perusal of above observations shows that petitioner was given numerous opportunities to make the payment of balance amount before passing the resumption order on 08.09.2014. Even during the course of hearing at the appellate stage, learned counsel for the petitioner agreed to make the entire payment within one month on furnishing of recalculation, which was furnished to the petitioner on 21.01.2015. Hence, in view of the statement made by learned counsel for the petitioner before the Appellate Authority, petitioner was liable to deposit the entire balance amount by 20.02.2015 but he did not deposit the same, rather chose to remain absent

before the Appellate Authority. In these circumstances, Appellate Authority

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finding no other alternative, dismissed the appeal of the petitioner.

7. Since after availing numerous opportunities before the Estate Officer and also an opportunity before the Appellate Authority petitioner failed to make payment of the balance amount, petitioner is not entitled to the relief claimed. Hence, defaulters like the petitioner are not entitled to any discretionary relief under the extraordinary writ jurisdiction of this Court under Articles 226/227 of the Constitution of India.

8. In view of the above discussion, we do not find any illegality or perversity in the impugned orders.

9. Dismissed.

10. Registry is directed to bring this order to the notice of the respondents.

(RAMENDRA JAIN)
JUDGE

November 04, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No