

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

CWP-25814-2014 (O&M)
Date of decision:- 01.02.2016

Nidhi Behl

... 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

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

Mr. R.S. Longia, Advocate,
for respondents No. 2 and 3 – HUDA.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The petitioner has challenged an order of resumption dated 17.04.2001 passed by respondent No. 3; an order dated 24.04.2007 passed by respondent No. 2 dismissing her appeal against that order and an order dated 04.11.2014 passed by respondent No. 1 rejecting her revision-petition against the same.

2. The commercial premises in question admeasured about 22.68 sq. meters. It was allotted to another party in the year 1996 for a consideration of about Rs. 10.50 lacs. Possession thereof was handed over in 1997. Apart from paying the initial 25% of the consideration, nothing has been paid either by the original allottee or by the petitioner who held a power of attorney from the original allottee.

3. We do not wish to go into the question as to whether the petition is maintainable or not in view of the order dated 17.12.2014 passed by the earlier Division Bench of this Court which recorded the petitioner's agreement to pay the current market price of the booth in question.

4. There is a dispute between the parties as to the current market price of the booth. According to the respondents, it is about Rs. 1.80 crores

as on date. They in fact contend that even in the year 2011, the price was over Rs. 1 crore. The petitioner on the other hand contends that the prices have gone down.

5. It is not possible for us to speculate about the current market price of the booth. The best method of arriving at the current market price is by permitting the respondents to put the property to auction and give the petitioner the option of matching the highest price.

6. The respondents contend that the petitioner must be put to terms for having occupied the premises for the last twenty years, although she failed to pay 75% of the consideration.

The proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 can always be adopted even for damages and/or compensation for wrongful user. The respondents are also at liberty to adopt any other proceedings as well for the same.

7. There are other aspects which would have to be considered in such proceedings. On the one hand, the petitioner contends that if the respondents obtain the current market price, there is no question of their being entitled to recover the charges for use and occupation in the interim period of twenty years.

The respondents on the other hand, inter alia, contend that this is of no concern of the petitioner and that if the possession had been handed over to them earlier, as they ought to have been, the respondents would have given the same out to any party at a license fee and would recover the current market price as well.

8. These are the issues which would also depend upon various factors including the outcome of the auction.

9. In these circumstances, the writ petition is disposed of by the following order:-

(i) The respondents shall be at liberty to auction the premises. The petitioner shall be at liberty to bid for the same. In the event of the petitioner being willing to match the highest bid, she shall be entitled to the allotment subject to what is stated hereafter.

(ii) Upon issuance of the notice of auction and intimation thereof in writing to the petitioner, the petitioner will hand over quiet, vacant and peaceful possession of the premises to the respondents.

(iii) The premises will thereafter abide by the result of the auction and the exercise of the option by the petitioner as aforesaid. The entire process in this regard shall be completed within four weeks of the petitioner handing over the possession of the premises as aforesaid.

(iv) In the event of the petitioner not handing over the possession as aforesaid, this order shall not operate and the writ petition shall be deemed to have been dismissed.

(v) Irrespective of the outcome of the auction and irrespective of whether the petitioner exercises the option to take over the premises nor not, the respondents shall be at liberty to take steps and/or adopt any proceedings for the recovery of any further amount(s) for the use and occupation of the premises till date. All the rights and contentions of the parties in that regard are kept open.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

01.02.2016

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