

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

CWP No. 3108 of 2015

DATE OF DECISION : 03.10.2016

R.D. Verma

.... PETITIONER

Versus

The State of Haryana and others

..... RESPONDENTS

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

Present: Mr. Vikas Kumar, Advocate,
for the petitioner.

Mr. Saurabh Girdhar, Assistant A.G., Haryana.

Mr. Lokesh Sinhal, Advocate,
for respondent Nos. 2 and 3.

* * *

RAMENDRA JAIN, J.

1. The brief facts leading to the filing of this petition are that vide allotment letter dated 22.10.1991 (Annexure P-1), the petitioner was allotted kiosk No. 223, Sector 17, Faridabad, by the Estate Officer, Haryana Urban Development Authority, Faridabad (respondent No.3) for a total sale consideration of ₹ 1,05,000/-. At the fall of hammer, 10% of the sale consideration was deposited by the petitioner. Thereafter, vide receipt dated 22.11.1991, he deposited another sum of ₹ 15,750/- in order to make payment of 25% of the total sale consideration of the said kiosk. As per clause No.5 of the allotment letter, 75% price of the site was to be paid by the petitioner either in lump sum within 60 days from the date of issue of

allotment letter without interest, or in 10 half yearly instalments with

interest at the rate of 10% per annum. After depositing four instalments till 15.10.1993, the petitioner defaulted in making payments of the remaining instalments. However, construction was raised on the site in question in time. On 10.02.1997, the petitioner gave General Power of Attorney in favour of Shri Bir Singh Yadav. Thereafter, respondent No.3 issued several notices under Section 17 of the Haryana Urban Development Authority Act, 1977 (hereinafter referred to as 'the Act') to the petitioner, which according to the petitioner were never received by him. Despite that, the petitioner did not make any payment. Resultantly, vide order dated 26.06.2001 (Annexure P-4) passed by respondent No.3, the site in question was resumed and 10% of the total sale consideration was forfeited. The appeal and revision filed against the said order were dismissed by the Appellate and the Revisional authorities vide orders dated 04.12.2012 and 21.10.2014 (Annexures P-5 and P-6).

2. The petitioner, through his GPA Shri Bir Singh Yadav, has now filed this petition under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari to quash the aforesaid orders dated 26.06.2001, 04.12.2012 and 21.10.2014.

3. Learned counsel for the petitioner argued that the site in question was allotted in favour of the petitioner on 22.10.1991 and after making payment of 25% of the total sale price within time, upto 15.10.1993, the petitioner had paid substantial amount, i.e. 60,636/- against the total sale consideration of ₹ 1,05,000/-. He also raised construction on the site in question within time. Thereafter, due to financial constrains and paucity of funds, he could not make payment of balance price. Regarding the notices

under Section 17 of the Act, alleged to be issued by respondent No.3 to the petitioner, learned counsel submitted that the petitioner did not receive any such notice. The impugned resumption order was passed by respondent No.3 in the absence of the petitioner. On coming to know about the said resumption order in April, 2012, the petitioner filed appeal against the same. The petitioner is ready and willing to pay the entire dues payable to the respondents along with interest and penalties.

4. During the course of hearing on 28.01.2016, the petitioner was asked to file an affidavit, as to whether or not he had received any papers or proceedings in connection with or relating to the resumption. The said order reads as under :-

“The order of resumption was passed on 26.06.2001, which was challenged in appeal almost 11 years thereafter in April 2012 and was dismissed on 04.12.2012. The only contention to explain the delay is that the petitioner did not receive any notice of intended resumption or of the resumption order itself. This petition is filed through a general power of attorney. The general power of attorney cannot aver to his knowledge whether or not the notices were served. It is necessary, therefore, that the petitioner himself files an affidavit, as to whether or not he had received any papers or proceedings in connection with or relating to the resumption.

Adjourned to 09.03.2016.”

On the last date of hearing, i.e. on 14.09.2016, learned counsel for the petitioner prayed for more time to comply with the aforesaid order dated

28.01.2016. Even today, the said order has not been complied with. Thus,

non filing of affidavit by the petitioner himself in terms of the order dated 28.01.2016 would lead to the conclusion that the petitioner was aware of the proceedings in connection with the resumption of the site in question. If that is so, long delay of almost 11 years in challenging the resumption order before the Appellate Authority remains unexplained. Moreover, after 15.10.1993, the petitioner did not make payment of even a single penny towards the remaining sale consideration. The petitioner has been enjoying the possession of the site without making payment of the due instalments has also raised construction thereon.

5. In view of the above, we do not find any illegality or infirmity in the impugned order dated 26.06.2001 (Annexure P-4) passed by respondent No.3, and the orders dated 04.12.2012 and 21.10.2014 (Annexures P-5 and P-6) passed by the Appellate as well as Revisional Authorities upholding the aforesaid resumption order dated 26.06.2001.

6. Petition is, accordingly, dismissed. However, it is made clear that it shall be open to the petitioner to file a representation regarding his claim with the respondents qua refund of money paid by him to the respondents, in accordance with law.

**(RAMENDRA JAIN)
JUDGE**

October 03, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes