

CWP No.1031 of 2016

[1]

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

**CWP No.1031 of 2016
Date of decision:15.09.2017**

Mohinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Om Pal Sharma, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Harjot Singh Bedi, Advocate,
for respondents no.3.

Rakesh Kumar Jain, J. (Oral)

The petitioner has prayed for a writ in the nature of *mandamus* seeking a direction to the respondents to refund his amount of ₹7.29 lacs, along with interest, deposited as an auction purchaser on 09.04.2007.

In short, agricultural land measuring 14 Kanals of one Jaspal Singh S/o Kulwant Singh, Ex-Secretary of Ballawal Cooperative Agriculture Society, VPO Phallowal, Tehsil and Distrit Ludhiana was put to auction in view of an arbitration award passed against him. The Assistant Registrar, Cooperative Societies, Ludhiana was appointed as a Sale Officer, who sold the property of aforesaid Jaspal Singh on 01.03.2007 to the petitioner for a total sale consideration of ₹7.29 lacs. The said amount was deposited by the petitioner against receipt dated 09.04.2007. However, the said auction was set aside by the Deputy Registrar, Cooperative Societies, Ludhiana. The petitioner, thereafter, made a request to the respondents to refund the amount

deposited by him as the transaction, for which he had paid the money, was not approved.

Since the money was not paid for a long time, therefore, the petitioner has approached this Court by way of this petition, in which notice of motion was issued as far back as on 19.01.2016 and, thereafter, it was adjourned on 3-4 times on the request of the respondents for filing of reply and on the last date of hearing, i.e. 08.09.2017, counsel for respondent no.3 sought time to seek instructions for refund of the money.

Shri Bedi, learned counsel appearing on behalf of respondent no.3, submits that the society, namely, Ballawal Cooperative Agriculture Society is not having enough amount in their saving account, therefore, it is unable to pay the amount of the petitioner. He has further submitted that the petitioner is still in possession of the land, which was sought to be sold by way of auction.

In this regard, counsel for the petitioner has submitted that there was an agreement of sale between the petitioner and Kulwant Singh, father of Jaspal Singh, with regard to the land in question. He filed the suit for possession by way of specific performance bearing Civil Suit No.13 of 22.01.2007, which was decreed on 20.01.2016. He had deposited the sale consideration in the treasury and the sale deed has been executed and registered at the instance of the Civil Court. Therefore, it is submitted that the petitioner is not in possession of the land in question by virtue of the auction purchase but by way of Civil Court decree.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the petitioner, who had

deposited ₹7.29 lacs as sale consideration at the time when the property was purchased in auction, is entitled to the refund of the amount from the date it was deposited, along with simple interest @ 9% per annum, as on one hand the respondents had set aside the auction in favour of the petitioner long back and on the other hand, they are not returning the amount deposited by him despite his repeated efforts in this regard.

In view of the above, the present petition is hereby allowed and respondent no.3 is directed to refund the amount of the petitioner of ₹7.29 lacs, along with simple interest @ 9% per annum from the date it was deposited by him within a period of 3 months from the date of receipt of certified copy of this order.

It is made clear that in case the amount is not returned within the stipulated period, the petitioner would be at liberty to file an application under Sections 10 and 12 of the Contempt of Courts Act, 1971, for initiation of contempt proceedings against respondent no.3 for violating orders of this Court. Moreover, the petitioner would also be at liberty to initiate proceedings for the purpose of attachment and sale of the property of respondent no.3 by filing an application before this Court.

September 15, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No