

212

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

CWP-16699-2013

Date of decision : 27.02.2017

Punjab Small Industries and Export Corporation Ltd.

... Petitioner(s)

Versus

Deputy Commissioner, Patiala and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Raajan Soni, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Respondent No.3-*ex parte* vide order dated 21.01.2014.

AMIT RAWAL, J. (ORAL)

The grievance of the petitioner in the present writ petition is for quashing of the order dated 01.09.2009 (Annexure P-13), whereby the appeal preferred by respondent No.3 against the order dated 11.06.2008 (Annexure P-11), passed by the Collector allowing the eviction petition under the Punjab Public Premises Land (Eviction and Rent Recovery) Act, 1973 (for short 'the Act'), has been set aside.

Mr. Raajan Soni, learned counsel appearing on behalf of the petitioner submits that respondent No.3 vide allotment letter dated 26.10.1983, an industrial plot bearing No.D-1 (P) situated at Industrial Focal Point, Nabha, was allotted on 99 years lease hold basis. The lease deed was executed and possession was handed over to the respondent on 03.10.1987. The payment of the price of the plot was agreed to be paid

either in lump sum or in equal installment along with interest. Since the allottee failed to make the payment, after affording the opportunity of hearing, the allotment was cancelled. The cancellation order had attained finality, in essence, there was no challenge. Having left with no other option, the Punjab Small Industries and Export Corporation Ltd., sought eviction of the premises under the aforementioned Act. The same was allowed vide order dated 11.06.2008 (Annexure P-11) by the Collector and however, in appeal, the Commissioner vide order dated 01.09.2009 has erroneously accepted the appeal and set aside the order on the premise that the allottee has made the payment. The reference of payment is of a very old period, but the subsequent due payment is conspicuously absent, in essence, 80% of the amount was to be paid by way of installments. Having failed to do so, the Commissioner should not have set aside the order particularly when there was no challenge to the cancellation of the allotment.

I have heard the learned counsel for the parties and in agreement with the arguments of Mr. Raajan Soni, learned counsel appearing on behalf of the petitioner on the premise that the order of the Commissioner does not reflect at any point of time, the respondent No.3 had challenged the cancellation. Until and unless, the allotment is set aside, the plot cannot be ordered to be restored in a proceeding under the aforementioned Act as the domain is only to evict the unauthorized occupants of the public premises and also pay the use and occupation charges. Even the outstanding amount allegedly to have been deposited by the allottee is conspicuously absent. The reference to the draft is of an earlier point of time. Even the allottee failed to offer payment of the entire

outstanding dues along with restoration charges, much less, the other charges.

In view of the above, the order lacks the application of mind, much less, against the record, thus, the order is not sustainable and the same is hereby set aside and that of Collector is restored.

With the aforesaid observations, the present writ petition stands allowed.

27.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No