

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

CWP No.20558 of 2012
Date of decision : 20.03.2017

Gurwant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Amit Singh Sethi, Addl. A.G. Punjab.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court by challenging the order dated 17.08.2011 (Annexure P-4) passed by the respondent No.5-Sub Divisional Officer, Canal Sub Division, Amir Khas, Jalalabad, District Ferozepur, Punjab, whereby auction of the land measuring 4.88 acres area conducted on 15.12.1999, has been cancelled.

Learned counsel for the petitioner has drawn the attention of this Court to para No.3 of the written statement to contend that land in question was in ownership of Bikaner Government Canal (i.e. Rajasthan Govt.), which reads thus:-

“3. That the petitioner has unnecessarily knocked the door of this Hon'ble Court. It is pertinent to mention here that at the time of the auction the department was in misapprehension that the land in question for which the

auction was held, was the ownership of Punjab Govt., but later on when the record was verified, it revealed that the land in question was the ownership of Bikaner Government Canal (i.e. Rajasthan Govt.). The copy of the concerned jamabandi is being annexed herewith as an Annexure R-1 and the english translated version of the same is Annexure R-1/T. Therefore the answering respondents were not competent to execute sale deed qua the suit land in favour of petitioner. Therefore the auction was cancelled vide order dated 21.10.2010 passed by respondent No.3. The copy of said order is being annexed herewith as Annexure R-2 and the english translated version of the same is Annexure R-2/T. However in the above noted order dated 21.10.2012 the name of petitioner was mentioned as Gurmel Singh instead of Gurwant Singh, but the same was rectified vide letter No.9392-93/283-L/C.R.C. dated 03.03.2011. The copy of said letter is being annexed herewith as Annexure R-3 and the english translated version of the same is Annexure R-3/T. Moreover compliance of the said order dated 21.10.2012 was made by the respondent No.5 vide letter dated 17.08.2011. Copy of said letter has already been annexed with the petition as Annexure P-4. But the petitioner has wrongly mentioned the said letter dated 17.08.2011 as order whereas the said letter/notice was only the information and instructions made to the petitioner to deliver the vacant possession of the land in question, in compliance of above noted order dated 21.10.2010. It is relevant to mention here that the petitioner has no right to challenge the said cancellation order as in clause 10 of the Auction notice, it has been clearly mentioned that auction can be cancelled without assigning any reason. The said Auction Notice has already been annexed as Annexure P-1, by the petitioner with the

petition. Therefore the petitioner is not entitled to challenge the above said auction cancellation order.”

In view of the aforementioned stand taken in the written statement, impugned order, in my view, is not sustainable as State of Punjab do not have any jurisdiction to cancel the auction as the land does not belong to the Punjab Government and is hereby set aside.

Accordingly, the present writ petition stands allowed.

20.03.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No