

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14668-2017 (O&M)
Date of decision:11.09.2017

Gurvinder Singh

...Petitioner

Versus

The Union Territory, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rajesh Kumar Girdhar, Advocate
 for the petitioner.

Mr. Sanjiv Ghai, Advocate
for the UT Chandigarh.

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

The petitioner has challenged the order dated 21.02.2017 (Annexure P-6) resuming the lease deed on account of the petitioners failure to have lease deed executed. The petitioner has also challenged the orders dated 02.05.2016 and 04.02.2015 dismissing his appeal and revision.

2. By an allotment order dated 24.04.2008, the petitioner was granted a lease in respect of a built up booth. Clause 4 (b) (iv) of the allotment order reads as under:

"iv) in the case of non-payment of cost of structure in the manner stated above, the lessee shall be liable to pay interest @ 20% p.a. after the due date of such payment as per rules and regulations of the Chandigarh Housing Board.

8. You shall have to execute a lease deed on the requisite non judicial stamp paper after the expiry of one month from the date of allotment in such a manner as may be directed by the Estate Officer. The stamp duty leviabale would be according to prevalent rates and all other

expenses in respect of execution/registration of lease deed shall be borne by you. The lease deed on non judicial stamp papers is to be got typed in triplicate keeping the carbon copies in judicial papers. The reverse page on non judicial stamp paper is to be left blank.

14. In the event of default, breach of non-compliance of any of the conditions of lease, the lease may be terminated/cancelled and the booth resumed and the whole/ part of amount paid towards the premium of the booth may be forfeited to the Government."

3. Rule 14(1) of the Lease Hold of Sites and Building Rules, 1973 (for short 'the Rules') provides that lessee is bound to execute a lease deed in form 'B' & 'C' within six months from the date of allotment. Rule 14(2) of the Rules reads as under:

"If the lessee fails to execute a lease deed in accordance with Sub Rule (1) of this Rule, the Estate Officer may cancel the lease and forfeit a sum upto 25% of the premium."

4. The petitioner was served a notice dated 05.08.2014 calling upon him to show cause why the lease ought not to be cancelled on account of the non-execution of the lease deed. That order does not specifically state that there was also a default in the payment of the amount due as per letter of allotment. It is the order of the revisional authority that refers to the non-execution of the lease deed. In the facts and circumstances of the case, it is not necessary to consider as to whether the order of cancellation of the lease could have been passed on the ground of failure to pay the amount despite the fact that show cause notice and the order of the Estate Officer were only on account of non-execution of the lease deed.

5. In the facts and circumstances of the case, we are inclined to grant the petitioner indulgence as the petitioner had suffered a series of mis-fortunes of a grave nature. For instance, his brother, who was helping him in his business expired on 25.11.2014. His mother also expired on 28.02.2015. Thereafter, he was burdened with costs on account of certain family responsibilities.

6. In compliance of our order dated 11.07.2017, the petitioner paid an amount of Rs.9 lacs to the respondents. The respondents state that a further amount of Rs.10,73,721/- is payable on account of interest on installment; ground rent plus interest; service tax on ground rent and service tax on installments.

7. The petitioner agrees and undertakes to pay the amount of Rs.10,73,721/- latest by 22.09.2017. He also agrees that he will deposit the lease deed latest by 24.09.2017 and will also pay the costs charges and expenses of each and every nature in connection therewith. He also agrees and undertakes to forward a copy of the lease deed duly executed to the respondents by 30.09.2017. The statements and undertakings are accepted.

8. Accordingly, the petition is disposed of by setting aside the orders dated 21.02.2017, 02.05.2016 and 04.02.2015 subject to the petitioner complying with the above statements and undertakings. It is further ordered that the petitioner shall also pay any further amount found payable on any account whatsoever to the respondents within four weeks of the demand subject only to the petitioner's right to claim a refund in accordance with law. In the event of the petitioner failing to comply with the above statements and undertakings, and further order this

petition shall be deemed to have been dismissed and the impugned orders shall stand. In the event of the petitioner fulfilling all the conditions, the respondents shall de-seal the premises. The petitioner shall also pay Rs.25,000/- as cost of the petition by 22.09.2017.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

11.09.2017
Atul

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