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

CWP-2605-2012

Date of decision : 20.03.2017

Jiwan Lal

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mandeep Kumar Sajjan, Advocate
for the petitioner(s).

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

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 09.11.2011 (Annexure P-10), received by him on 24.12.2011, whereby his allotment of Canal Rest House Kabalshah, had been cancelled.

Mr. Mandeep Kumar Sajjan, learned counsel appearing on behalf of the petitioner submits that the State Government was the owner in possession of the so many lands/canal rest house belonging to the Irrigation Department, in fact, the respondent(s) were having surplus land and as well canal rest house. Vide order dated 21.03.1998 (Annexure P-1), the decision was taken by the Standing Committee, whereby the Officers defined therein, were deputed to dispose of the surplus land belonging to the Punjab Irrigation Department. Vide office letter dated 15.07.1998 (Annexure P-2), the Superintending Engineers of Canal Administration

were granted competency to accord final approval of the cases relating to the auction including the agreements with the purchasers. The auction notice dated 02.10.1999 (Annexure P-3) was in respect of the various lands. The land in dispute is Kabulshah Canal Rest House and only the land measuring 4.00 acres was put to auction. As per the terms and conditions of the auction, 10% of the amount was to be deposited by the highest bidder immediately after the auction and 25% of the amount within 60 days and remaining amount either in one installment or in four equal installments within a period of one year along with interest @ 15%. The petitioner was found to be highest bidder, as he gave a bid of ₹ 13,95,500/-, which was accepted being highest. Respondent No.4 wrote a letter dated 09.11.1999 regarding the sanctioning of the auction of the aforementioned canal rest house Kabulshah. However, after receiving the approval from respondent No.3, respondent No.4 wrote a letter dated 07.12.1999 (Annexure P-5) calling upon the petitioner to deposit a sum of ₹ 2,10,000/- which was deposited in time. However, the petitioner had deposited 10% of the total amount of ₹ 1,40,000/- with the respondent(s) and ₹ 2,10,000/- on 27.12.1999. The petitioner had been ready and willing to deposit the entire amount, but the Officers of the respondent(s)-Department on one pretext or the other, made excuses. Though, the possession of rest house was also not given as it remained with Junior Engineer. In fact the petitioner had been running from pillar to post for the payment of the entire amount, but the respondent(s) had been putting up the matter on one pretext or other and therefore, the default was not intentional, but owing to the reason, aforesaid. The petitioner was astonished to read a news item published in the newspaper on 03.05.2011 that auction of 7 Canal Rest Houses had been

cancelled by the State Government. The petitioner under mis-guidance filed a petition bearing CWP No.21020 of 2011 for quashing of the cancellation. However, the same was dismissed with the observations that as the rights of the parties stood determined under the terms of contract drawn up at the time of auction. The petitioner in pursuance to the direction dated 18.07.2011 issued in some other petition i.e. CWP No.404 of 2011, appeared before the Canal Authority i.e. respondent No.3, but impugned order dated 09.11.2011 (Annexure P-10) had been passed in a most erroneous and perverse manner, in essence, there had not been adherence to the principles of natural justice, much less, at the best the petitioner could have been called upon to pay the balance amount with more interest before the cancellation of the auction, the impugned order, under challenge is, thus, liable to be set aside.

Per contra, Mr. Amit Singh Sethi, Addl. A.G., Punjab has objected to the setting aside of the impugned order on the premise that the other similarly situated persons, had approached this Court vide CWP No.14261 of 2011 showing their willingness to pay the amount as they did not deposit and this Court by referring to the terms and conditions of the auction being sacrosanct, did not accept the request of the petitioner of making the payment after more than 10 years. The aforementioned writ petition was dismissed on 08.08.2011, which was assailed before the Division Bench of this Court vide Intra Court Appeal i.e. LPA No.1469 of 2011, but the same was also dismissed on 14.09.2012, in essence, despite having not paid the payment in that case, the land had put to auction. However, in the instant case, he submits that possession of the premises had not been given, thus, urges this Court for dismissal of the present writ

petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and substance in the submissions of Mr. Mandeep Kumar Sajjan, for, the parties cannot at their own convenience, approach this Court for vindication of so called grievance as delay in making the payment has not been explained in black and white. Nothing prevented the petitioner to comply with the terms and conditions of the auction notice to deposit the remaining amount in four equal installments within a period of one year along with interest @ 15%. Having failed to do so, the State was left with no other option, but to cancel the allotment by forfeiting the amount as indicated in the terms and conditions of the auction. This view had already been reiterated by this Court in the decision, as indicated above. The factum of the aforementioned decision has not been disputed by learned counsel for the petitioner, but he submits that an appeal on behalf of the similarly situated persons i.e. SLP No.36890 of 2012 titled as "Darshan Singh V/s State of Punjab" is pending adjudication before the Hon'ble Supreme Court. The next date of hearing is 13.04.2017.

Be that as it may, the fact remains that the petitioner had been defaulter in not complying with the terms and condition and therefore, cannot claim the parity with the other similarly situated persons as the facts and circumstances of each case are completely different.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order, much less, no ground is made out for interference and accordingly, the present writ petition is dismissed, however, it is directed that the respondent(s)-State shall refund,

if not, the amount after deduction of forfeiting amount as per the terms and conditions of auction along with interest @ 6% within a period of two months from the date of the receipt of the certified copy of this order.

20.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned

Yes/ No

✓

Whether Reportable

Yes/ No