

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

CWP No. 26037 OF 2016
Date of decision: 04.07.2017

Nirmala Devi .. Petitioner

vs.

State of Haryana and others .. Respondents

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

Present:- Mr. Jai Bhagwan, Advocate
for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner has challenged the order passed by the Revisional Authority under Section 17 of the Haryana Urban Development Authority Act, 1977 (for short 'HUDA Act') in so far as it sets aside the order of resumption passed by the Estate Officer but on the condition that the petitioner pays the current HUDA price of the site in question.

2. The deceased husband of the petitioner was allotted a booth on 06.03.1990 on the terms and conditions mentioned therein. The consideration thereof was about ₹ 1,87,000/-. The petitioner paid a part of the consideration in installments between 05.03.1995 and 05.09.1995, aggregating to ₹ 2,29,005/-. The balance was not paid by the petitioner. The respondents offered possession of the premises in question on 13.09.1995. The petitioner raised certain grievances regarding the condition of the site.

3. It is true that there was a delay of three years between 13.09.1995 and 08.08.1998 . That aspect need not be considered by us at this stage.

4. On 29.01.1999 the Estate Officer served a show cause notice under Section 17(1) of the HUDA Act. The petitioner filed a reply. The show cause notice was disposed of vide order dated 29.01.1999. The notice required the petitioner to pay an amount of ₹ 77,685/- inclusive of penalty within thirty days failing which it stated that proceedings for resumption would be initiated. The petitioner paid the amount on 24.06.1999, which was accepted. Even today, that amount has not been refunded on the ground that the payment was made after a delay of about one month. The payment, therefore, as per order under Section 17(2) of the HUDA Act was made in full.

5. The matter, however, did not end there. By a reminder dated 07.09.1999 the respondents informed the petitioner that a sum of ₹ 1,03,450/- was pending towards the booth. By this time, the payment for all the installments was liable to be made. The petitioner disputed the liability to pay the amount. As the petitioner refused to pay the amount, further show cause notice was issued under Section 17(1) of the HUDA Act on the ground that the petitioner had failed to make the payment of ₹ 1,04,800/- together with penalty and interest. The petitioner made payment of ₹ 20,000/- only. The petitioner was warned that if the payment was not made, the booth would be resumed. Despite the same, the petitioner refused to make the payment. Ultimately, the Estate Officer, HUDA, Jind vide order dated 06.07.2001 resumed the premises in question and forfeited 10% of the consideration already paid.

6. The petitioner initially filed a suit before the Civil Court. The same was, however, dismissed as withdrawn with liberty to file a revision

petition under Section 17(8) of the HUDA Act, which the petitioner did. The said revision petition was disposed of vide order dated 14.06.2016.

7. As we mentioned earlier pursuant to the order passed in respect of the original show cause notice, the petitioner paid the entire amount of ₹ 77,000/-. Thereafter, a demand of ₹ 1,03,450/- was made from the petitioner but the petitioner did not pay the same as he disputed his liability.

8. Neither the order of the Estate Officer resuming the property nor the impugned order of the revisional authority have dealt with this issue at all. In other words, they have not clarified as to the basis for the further demand of ₹ 1,03,450/-. Further the petitioner paid the amount pursuant to the order passed in respect of the first show cause notice issued by the Estate Officer. The impugned order merely states that there was a delay in paying the amount, which does not go into the question of the liability to pay the same.

9. Even before us, this issue was not clarified on behalf of the learned counsel for the respondents. The calculation sheet produced at Annexure P-31 merely states that the amount is due but does not mention the basis on which the amount is alleged to be due.

10. In these circumstances, the impugned order passed by the Revisional Authority is set aside. The Revisional Authority shall pass a fresh order detailing the reasons as regards the petitioner's liability to pay any amount other than that specified in the order dated 29.01.1999 in respect of first show cause notice issued under Section 17(1) of the HUDA Act. All the contentions of the parties are kept open.

11. The petition is accordingly disposed off.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

04.07.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No