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

CWP-5396-2016 (O&M)

Date of decision : 21.03.2017

Savita Pawar

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Som Nath Saini, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 22.11.2002 (Annexure P-3), whereby on the basis of the report submitted by kanungo, the Tehsildar has cancelled the allotment.

Mr. Som Nath Saini, learned counsel appearing on behalf of the petitioner submits that the petitioner had purchased the land measuring 10 kanals 3 marals. The terms and conditions of the conveyance deed envisaged the following mode of payment:-

"1. An amount of ₹ 11,11,250/- (Eleven Lac Eleven Thousands Two Hundred and Fifty only) will be deposited by the vendee in 15 half yearly installments without interest which will be payable after one year from the date of sale meaning thereby from 16.05.2000. ₹ 1,58,750/- deposited as earnest money will be taken into account in the end. In case the instalment is not paid in time then the vendee will be liable to pay interest at the rate of 6% on overdue installments.

1. 15.06.2000 = 74088-00

9. 15.06.2004 = 74083-00

2. 15.12.2000 = 74083-00	10 15.12.2004 = 74083-00
3. 15.06.2001 = 74083-00	11. 15.06.2005 = 74083-00
4. 15.12.2001 = 74083-00	12. 15.12.2005 = 74083-00
5. 15.06.2002 = 74083-00	13. 15.06.2006 = 74083-00
6. 15.12.2002 = 74083-00	14. 15.12.2006 = 74083-00
7. 15.06.2003 = 74083-00	15. 16.06.2007 = 74083-00
8. 15.12.2003 = 74083-00	

An amount of ₹ 1,58,750/- as earnest money had already been deposited and after first and second instalment, there was a default in the certain instalments. In case of default, the terms and conditions of the conveyance deed has envisaged the charging of interest @ 6% on overdue amount. Though the petitioner had received a notice for payment of first instalment of ₹ 74,088/-, but the first instalment had been paid. However, no notice of such nature had been issued before passing of the impugned order. He has drawn the attention of this Court to the order dated 07.01.2016 (Annexure P-7), whereby the petitioner had volunteered to make the payment of total outstanding amount along with interest @ 12%, but as per the affidavit dated 27.10.2016, the Tehsildar (Sales), Gurgaon, vide order dated 24.10.2016 of this Court has declined the request of the petitioner.

Keeping in view of the aforementioned facts, I am astounded that the Officers at the helm of the affairs do not comply with the principles of natural justice. Once the terms and conditions of the allotment envisaged the payment of interest on overdue amount, the resumption or the cancellation should be last resort, this is what the position of law is. The decision had been very opaque and lacks consideration of the request, despite the fact that this Court had noticed the request of the petitioner. The

whole idea is to regulate the allotment by charging the interest. By charging the interest, the State would be benefited, but it appears that the approach has not been objective and pragmatic. The respondent/authority was required to issue a show cause notice to the petitioner with regard to the same. Even otherwise, the petitioner has shown his intention to deposit the entire amount with interest.

Accordingly, I deem it appropriate to dispose of the present writ petition as the *bona fide* of the petitioner is fair and just. Resultantly, the impugned order, under challenge, is hereby set aside.

Liberty is granted to the respondent(s) to take action in accordance with law, strictly as per the terms and conditions of the conveyance deed without resorting the immediate cancellation or resumption proceedings.

Since the petitioner has offered to deposit the entire outstanding amount along with interest @ 12%, let the payment be deposited within a period of two months from the date of the receipt of the certified copy of this order. In case such amount is paid, the Authority shall consider to restore the allotment subject to any restoration or any other charges.

The present writ petition stands disposed of, in the aforementioned terms.

21.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**