

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.8986 of 2017.

Date of Decision: May 01, 2017

Brijesh Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Ravi Kapur, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner seeks quashing of the order dated 17.10.2016/ 21.12.2016 passed by the Additional Chief Secretary to Government of Haryana, Agriculture and Farmers Welfare Department in exercise of his revisional powers under Section 40(3) of the Punjab Agricultural Marketing Produce Act, 1961, whereby revision petition filed by the Market Committee, Naraingarh was allowed and order of the Appellate Authority waiving off the penal interest levied on the petitioner was set-aside.

[2] The facts are not in dispute. Booth Plot No.46 in the New Grain Market at Naraingarh, District Ambala was allotted to the petitioner in open auction held on 12.06.2006 at the cost of Rs.6,70,000/-. The petitioner deposited 1/4th of the sale consideration at the spot.

[3] The allotment letter was issued on 01.09.2006 alongwith the schedule for payment of installments contained in Clause-4 thereof, which reads as follows:-

“..4. The sum of Rs.1,67,500/- paid by you as 25% of the allotment price/bid cost of the plot has been adjusted in your plot account. You are requested to remit a sum of Rs.5,02,500/- on account of balance 75% of the price of plot either without interest within 30 days from the date of issue of

this letter or in six half yearly installments with 15% interest or at such rate of interest as may be specified by the Board from time to time, occurring from the date of issue of this letter of allotment and mentioned hereunder:-

<u>Sr.No.</u>	<u>Due date of Installment</u>	<u>Amount of installment</u>	<u>Interest @15%P.A.</u>	<u>Total amount Installment.</u>
1.	28.02.2007	83750.00	37688.00	121438.00
2.	31.08.2007	83750.00	31406.00	115156.00
3.	29.02.2008	83750.00	25125.00	108875.00
4.	31.08.2008	83750.00	18844.00	102594.00
5.	28.02.2009	83750.00	12563.00	96313.00
6.	31.08.2009	83750.00	6281.00	90031.00..."

[4] Similarly, Clause-5 of the allotment letter reads as follows:-

"...5. In case of failure to deposit the instalment in time, penal interest @4% P.A. to be compounded half yearly shall be charged in addition to the normal interest. In case of default of two successive instalments, the plot and the building, if constructed, shall be resumed by the Market Committee after giving an opportunity of being heard to you....."

[5] The petitioner deposited the first instalment of Rs.1,21,438/- on 28.02.2007 but thereafter admittedly not even a single instalment was deposited.

[6] It may be seen that as per the terms and conditions of allotment, in the event of failure to deposit the instalment, the petitioner was liable to pay penal interest @4% per annum to be compounded half yearly in addition to the normal interest described in Clause-4 of the allotment letter.

[7] As the petitioner failed to deposit the due instalments, the Market Committee levied penal interest as per Clause-5 of the allotment letter. The petitioner filed appeal before the Chief Administrator of the

Board and for the reasons best known to him, the Chief Administrator vide

order dated 21.10.2014, allowed the petitioner's appeal and waived off the penal interest.

[8] The aggrieved Market Committee approached the State Government in revisional jurisdiction and vide order under challenge, its revision petition has been allowed. The Revisional Authority thus held as follows:-

“... I have heard both parties. I have also gone through the relevant record available on the file. It is evident that the conduct of the respondent No.1 after the allotment was not fair as he did not pay a single penny towards the balance price of the plot after payment of first installment. Instead of making any payment in response to golden opportunity, the respondent No.1 merely asked to grant him some time to deposit the pending dues by filing an appeal. Therefore, the relief granted by the appellate authority to the respondent No.1 is beyond the pleadings of the appeal. Moreover, the waiver of the penal interest as granted by the appellate authority is contrary to the terms and conditions of the allotment letter. Under these facts and circumstances, I am of the view that the impugned order has caused miscarriage of justice. The purchaser of a plot in open auction is bound by the terms and conditions of the allotment letter and he is bound to pay interest/penalty etc. as per terms and conditions of the allotment letter for delay in payment of installments/construction on the plot. Therefore, it is a fit case to exercise the revisional powers to set aside the impugned order being illegal and unjust.....”

(emphasis applied)

[9] We have heard learned counsel for the petitioner who relies upon an order of the Revisional Authority passed in some other case where also relief towards penal interest was granted.

that case are totally distinguishable as there it was found as a matter of fact that no basic amenities were made available to use the site, hence the relief of penal interest was granted. No such case is pleaded or proved by the petitioner in the instant case. On the other hand, the terms and conditions of the allotment letter clearly obliges him to pay penal interest in the event of failure to deposit the due instalments.

[11] No case to interfere with the order under challenge is made out.

[12] Dismissed.

[SURYA KANT]
JUDGE

May 01, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

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