IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.35 of 2017 (O&M)

Date of Decision : 16.05.2017

Ashwani Kumar

....Appellant

Versus

The Financial Commissioner Revenue &
Disaster Management Department, Haryana
and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

Present : Mr. Dinesh Ghai, Advocate
for the appellant.

.....

MAHESH GROVER, J. (Oral)

CM No.52-LPA of 2017

Having regard to the reasons mentioned in the application, delay of 78 days in re-filing the appeal is condoned.

C.M.stands allowed.

LPA No.35 of 2017

This appeal is directed against the judgment of the learned Single Judge dated 09.09.2016.

The appellant participated in an auction availing a plot in a scheme intended for Scheduled Caste. He was successful and deposited the requisite amount. Since the auction was not confirmed, he approached the higher authorities in this regard. But before any order could fructify he made an application dated dated 30.11.2011 seeking withdrawal of the amount and from the auction process unconditionally. The learned Single Judge in writ proceedings

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preferred after the appellant concluded that it was a tainted auction but went on to conclude further that since the appellant had withdrawn from the auction unconditionally he would not be entitled to the benefit of the plot though he was a successful bidder in the auction process.

Learned counsel for the appellant with reference to Annexure P-8 – a document pertaining to sale of rural evacuee land in restricted auction to the Harijans, contends that the scheme is liberal and permits a default in payment of money and even if it is resumed on account of this default and put to re-auction, it gives liberty to the successful bidder to assert his right to the plot despite the re-auction. For the purpose of reference the relevant is extracted herebelow :

> "1) In case a Harijan auction purchaser makes default in the payment of the first instalment despite the service of the notice the land thus sold to him should not be resumed but on his failure to pay the second instalment a registered notice for 15 days may be sent to him to pay the amount. It may specifically be indicated in the notice that in case the amount is not deposited within the stipulated period, the land will sold. Even if on receipt of the registered notice, the amount is not deposited, the land should be resumed and steps take to dispose of the land by auction amongst the Harijan.
>
> 2) In case at the time of re-auction of the land the auction purchaser comes forward with the request that the amount may be got deposited from him, the same should be

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accepted and the land restored to him."

We are afraid we cannot accept this plea of the learned counsel for the appellant for the reasons that the appellant withdrew unconditionally from the auction to surrender the plot and retrieve his money. Besides, the afore-extracted clauses from the circular Annexure P-8 have to be read with a clarificatory note which may be extracted herebelow :-

> "It has been decided that where a Harijan auction purchaser has paid more than 1/3rd towards the cost of the land, the amount should not be forfeited and hence forth all such cases where the Harijan auction purchasers have made default in payment of the two successive instalment should be referred with your recommendations to the Chief Settlement Commissioner, for final orders. Where a Harijan auction purchaser has paid earnest money or only one or two instalments, their statement should be record giving reasons for non payment of the instalments. Till such time as final orders are not received by you from the office of Chief Settlement Commissioner, forfeiting instalments already paid, you should accept deposit of all outstanding instalments on inform Chief Settlement Commissioner so that proceeding initiated for forfeiture may be dropped."

It covers those cases where there has been a default evidently to protect such Harijans and to ensure that they are given the intended benefit of the plot despite default, ostensibly keeping in

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view their poor status and financial limitations.

We thus do not find any ground to interfere.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

16.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

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

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