

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15153-2015

Date of Decision: September 11, 2018

Suresh Kumar

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.I.S.Pabla, Advocate for the petitioner.

Mr.Sandeep Moudgil, Addl.AG, Haryana.

Mr.Saurabh Kaushik, Advocate for

Mr.Abhilaksh Grover, Advocate for respondent Nos.2&3.

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SURYA KANT, J.(ORAL)

The Chief Administrator, Haryana State Agricultural Marketing Board, vide order dated 11.01.2008 dismissed the appeal filed by the petitioner under Rule 11 of Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 in which he had challenged the order dated 22.02.2007 regarding resumption of Plot No.223, situated in New Grain Market, Thanesar. The aggrieved petitioner filed a revision petition before the Principal Secretary-cum-Financial Commissioner, Agricultural Department, Haryana under Section 40(3) of Haryana Agricultural Produce Markets Act, 1961. The revision petition was

petitioner subject to payment of balance amount alongwith penal interest with a further condition that he shall not transfer the plot in any shape for a period of five years. The operative part of the revisional order dated 03.01.2013 reads as follows:-

“Keeping in view the peculiar facts and circumstances of the case, I have come to this conclusion that the matter is hanging fire since 1999. Therefore, the ends of justice would be met if simple interest @ 15% per annum is charged from the petitioner on the balance installments alongwith the penal interest @ 4% p.a. which shall also be charged on the basis of simple and not compound interest. The petitioner shall also be liable to pay the time extension fees for non-construction till the date of the completion of the building over the plot as per policy of HSAMB. Such extension fee is to be charged in accordance with Board's Circulars issued from time to time. The respondent Market Committee is hereby directed to give the calculation sheet within a period of 15 days from the receipt of this order to the petitioner who shall deposit the balance amount alongwith upto date interest within a period of two months and also complete the construction as per the approved plan within a period of six months from the date of receipt of a copy of this order. In case of his failure to do so, the respondent market committee will be at liberty to resume the plot in question in accordance with law. The substantial relief of non-compounding of the interest has been granted with the sole motive to provide an opportunity to the petitioner to get his allotment of the plot regularised and to operate the genuine trading business upon the allotted shop. The purpose of granting the relief is not to provide an opportunity to the plot holder to indulge in speculation activities. Therefore, the transfer of the plot in any shape shall be strictly prohibited for a period of five years from the

date execution of the conveyance deed or from the date of completion of construction whichever is later. I order accordingly.”

[2] The petitioner is still dis-satisfied and has approached this Court claiming that in the case of similarly placed defaulters, no penal interest was levied and no condition of not transferring the plot for a period of five years was imposed. He relies upon some orders passed by the Chief Administrator of the Marketing Board in exercise of appellate powers. On the other hand, learned State counsel submits and may be rightly so that those were the cases where possession was not offered, hence no penal interest could be imposed, whereas in the case of petitioner, physical possession of the allotted site was duly offered.

[3] We have heard learned counsel for the parties. Since the question of parity with other allottees has not been expressly examined by the Revisional Authority, it appears to us that the ends of justice would be adequately met if the order dated 03.01.2013 passed by the Revisional Authority is modified to the extent that if the petitioner deposits the due amount, as directed by the Revisional Authority vide order dated 03.01.2013, without prejudice to his rights and thereafter he submits a representation to the Competent Authority re: sympathetically consideration of waiver of the penal interest or to exempt him from the condition of not transferring the plot for five years from the date of execution of the Conveyance Deed, let such representation be sympathetically considered by the Competent Authority. The petitioner shall deposit the due amount within a period of one month and if he makes representation thereafter, let

the same be considered and decided within a period of four months from the

date of filing of such representation.

[4] Disposed of.

(SURYA KANT)
JUDGE

September 11, 2018
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |