

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

CWP No.17987 of 2017 (O&M)

Date of Decision: 25.07.2018

Inderjit Singh

...Petitioner

VS.

State of Punjab & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Ms. Payel Mehta, Advocate for the petitioner

Mr. Rajesh Bhardwaj, Sr.DAG Punjab

Mr. Ashish Grover, Advocate for respondents No.2&3

SURYA KANT J. (Oral)

(1) Lower Income Group House No.1171, Housing Board Colony, Ranjit Avenue, Amritsar, was allotted on 13.12.1990 to one Inderjit Singh s/o Manohar Lal. The said allottee executed a General Power of Attorney in favour of the petitioner on 05.06.1991, in a way selling the dwelling unit to her (Mrs. Kamaljit Kaur). She could not deposit some of the instalments allegedly due to poor financial condition. The total amount in default was ₹ 23,408/-. Smt. Kamaljit Kaur, however, continued to retain possession of the unit. The allotment of the house was eventually cancelled on 08.09.2003 by the Estate Office, Amritsar Development Authority. The petitioner filed appeal against that order which was dismissed on 14.01.2005.

(2) It further appears that thereafter the petitioner as well as the authorities went into slumber and took no action till the petitioner received a letter dated 23.04.2015 asking her to vacate the dwelling unit. The petitioner then filed a revision petition before the State Government which has been turned down vide order dated 09.02.2016. Hence this writ petition.

(3) The respondent-Amritsar Development Authority has filed its reply/affidavit explaining that the allottee was a chronic defaulter, who did not care to deposit instalments despite several notices. It is also averred that there was inordinate delay on the part of the GPA-holder in filing the revision petition. Still further, the petitioner is said to have raised illegal construction also.

(4) We have heard learned counsel for the parties and gone through the record.

(5) There is no gainsaying that the petitioner belongs to poor strata of society and the LIG dwelling unit is the only social shelter of her family. It is true that out of 156, 44 instalments could not be deposited, nevertheless, this Court in **Dheera Singh Vs. U.T., Chandigarh Admn. & Ors., 2012(4) RCR (Civil) 970** has viewed that resumption or cancellation of the site should be the last resort only in a case of chronic defaulter or who brazenly violates the building byelaws. To say it differently, if the State/authorities can be adequately compensated in lieu of the default, it may not be always necessary in every case to resume or cancel the site.

(6) In the instant case, the petitioner admittedly committed default in payment of some of the instalments. There is a provision to levy interest, penal interest and presumably surcharge also if the allottee has committed willful default in payment of due instalments. If those provisions are invoked, it appears that the respondent-authorities would be able to make good of the loss suffered due to non-payment or delay in payment of instalments by the petitioner.

(7) Let the due amount in terms of the directions given hereinabove be thus conveyed to the petitioner within a period of one month. The

petitioner shall be given option to pay such amount either in lumpsum within two months or in three equal instalments along with further interest.

(8) On deposit of the due amount, the dwelling unit shall stand restored subject to, however, further condition that the illegal/unauthorized construction shall also be removed within six months, if it is not compoundable. However, if it is compoundable, the petitioner shall have to deposit 'compounding fee' within the stipulated period.

(9) In the light of the above discussion, the impugned orders are modified and the writ petition stands allowed in above terms.

(Surya Kant)
Judge

25.07.2018

vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No