

Sr. No.225

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

**CWP No. 18138 of 2017(O&M)
Date of decision: 22.05.2018**

Lakhbir Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

**Coram: Hon'ble Mr. Justice Mahesh Grover
Hon'ble Mr. Justice Rajbir Sehrawat**

**Present: Mr. Jagjeet Gill, Advocate
for the petitioner(s).**

**Mr. Deepak Sabharwal, Advocate
for the respondent(s).**

Mahesh Grover, J.(Oral)

On 17.08.2017, this Court had prima facie expressed its opinion about the lack of merit in the petition and the claim set up. Petitioner was allotted a plot in open auction on 24.12.1991 and according to the terms thereof, he was to make 25% of the deposit with the remaining in equated instalment indicated in the allotment letter(Annexure P-1). The petitioner deposited 25% amount but after that he did not even pay a single instalment. Thereafter he applied for sanction of building plans which were granted but since instalments were not paid, Resumption Order was passed on 02.05.1996. Subsequent thereto, the petitioner clandestinely constructed the booth and used it for long number of years and when he applied for occupation certificate(OC) the respondents discovered the fact of the construction and the Occupation Certificate was denied. The petitioner then filed an appeal and revision against the Resumption order which was dismissed on 25.05.2016 and 30.05.2017 respectively.

Learned counsel for the petitioner contends that since he has already constructed the booth and is willing to pay the market price, the respondents should consider his case.

Learned counsel for the respondents on the other hand states that there is no such policy under which lapses like this can be condoned particularly when the Resumption order was passed on 02.05.1996 on account of the failure to deposit the instalments and the said order was challenged in the year 2015.

Learned counsel for the respondent further points to the dishonest conduct of the petitioner in raising the construction despite not making the payment and not questioning Resumption order of 02.05.1996 till 2015 though it was to his knowledge.

After hearing learned counsel for the parties and perusing the record, we are of the opinion that the petition deserve to be dismissed. The petitioner can not make a capital out of the present situation by raising the plea of construction which evidently was done without any valid sanction considering that the allotment was incomplete as he failed to make any deposit and also the fact that Resumption order was in existence on 02.05.1996 which he did not challenge.

It is infact the respondents who have been deprived of legitimate use of their own plot on site.

In Order dated 17.08.2017 we had noticed that in the event of the petition being dismissed, the petitioner would pay the compensation, as may be fixed by the Court, for the use of the premises. We do not find any merit in the petition and dismiss the same. We have considered the aspect of compensation and are of the opinion that the respondents shall now retrieve

the possession from the petitioner in its constructed form which in itself would partially compensate them as now they would be able to sell this plot in the present form. The petitioner is also directed to pay compensation of Rs. 2 lakhs to the HUDA and hand over the booth in its present form without damaging it within a period of two months.

Petition stands dismissed.

[MAHESH GROVER]
JUDGE

22nd May, 2018
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*