

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

LPA-923-2018 (O&M)

Date of decision:- 06.08.2018

The Commissioner, Ambala Division, Ambala and others

...Appellants

Versus

Dharam Singh @ Dharam Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellants.

Mr. Dinesh Ghai, Advocate,
for the respondent-caveator.

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KRISHNA MURARI, C.J. (ORAL)

This Letters Patent Appeal filed under clause X of the Letters Patent challenges the judgement and order dated 22.10.2016 passed by learned Single Judge allowing the writ petition filed by the petitioner (respondent herein).

2. Aggrieved by the impugned order dated 31.03.2008 passed by Commissioner, Ambala Division, Ambala; order dated 21.09.2007 passed by Settlement Commissioner, Ambala and order dated 17.11.2006 passed by District Revenue Officer-cum-Settlement Officer (Sales), Ambala declining approval to the deposit of ₹ 1,27,350/- by the petitioner towards his outstanding installments as well as interest, the petitioner invoked extra-ordinary jurisdiction conferred upon this Court under Article 226 of the Constitution of India.

3. Facts relevant for the purpose lie in a very narrow compass. Petitioner being the highest bidder was auction purchaser of a land measuring 21 kanals - 4 marlas in a restricted auction held on 20.02.1991. A sum of ₹ 8450/- was deposited by him at the time of auction which was confirmed by Settlement Officer (Sales) vide order dated 03.02.1992 and the possession of the said land was also delivered to him on 28.04.1992. The balance amount was to be deposited by him in 15 half yearly equated installments.

4. Admittedly, there was a default and the installments were not paid as per payment schedule. In the interregnum period, application was also made by the petitioner seeking extension of time for depositing the installments which was allowed, but still he failed to honour the payment schedule. This ultimately led to cancellation of the auction in his favour by Tehsildar (Sales) vide order dated 13.07.1995 forfeiting the amount deposited by him and resuming the land. After huge gap of time, the petitioner made an application that he was willing to deposit the entire installment alongwith interest at the rate of 12%. Tehsildar (Sales) accepted the application and allowed the petitioner to make the deposit. As a consequence, total balance amount of installments alongwith interest was deposited on 25.08.2006. The deposit made by the petitioner was accepted by the authorities unconditionally. Thereafter, an application was made by him for regularization of the auction sale which was dismissed by District Revenue Officer-cum-Settlement Officer (Sales), Ambala on 17.11.2006. Appeal filed against the said order was dismissed by the appellate authority i.e. Deputy Commissioner-cum-Settlement Commissioner, Ambala on 21.09.2007 and finally revision petition also met the same fate on having been dismissed by

Commissioner, Ambala Division, Ambala on 31.03.2008. These orders were put to challenge before this Court by means of the writ petition.

5. Learned Single Judge after considering the facts and circumstances of the case returned a finding that the bonafide of the petitioner was beyond doubt as he himself offered to deposit the total outstanding balance of installments alongwith interest and the same was unconditionally accepted by the authorities and, thus, there was no justification thereafter to deny regularization of the auction sale and direct forfeiture of the amount deposited and resumption of the land. Accordingly, the writ petition was allowed and the orders impugned therein were quashed.

6. Learned Additional Advocate General, Haryana, appearing on behalf of the appellants, vehemently contends that the application to deposit the outstanding installments was made by the petitioner after about eleven years and, thus, there was no justification for Tehsildar (Sales) to have accepted the said amount and he acted beyond his jurisdiction and as such the deposit would not confer any right upon the petitioner.

7. In reply Mr. Dinesh Ghai, learned counsel who has entered appearance on behalf of the respondent on the strength of caveat, drew attention of this Court to Annexure P-5 which is a circular dated 20.06.1973 issued by the Rehabilitation Department of the Haryana Government addressed to all the Tehsildar (Sales)/Naib Tehsildar (Sales) in the State, wherein it is provided that in case there is a default in deposit of installment(s) in restricted auction to the Harijans, the auction purchaser will have a right till such time the land is put to re-auction to deposit the outstanding balance of

installment(s) and the land shall stand restored to him. The said instructions were subsequently modified by another instruction memo dated 11.03.1981 which further provides that in case the land is to be re-auctioned, the previous auction purchaser is to be informed, against whom the forfeiture order has been passed, about the date of re-auction so that he can deposit the due amount(s) before re-auction.

8. A perusal of the aforesaid two instructions goes to show that the outstanding installment(s), if any, can be deposited by the auction purchaser till such time the land is put to re-auction and in case the amount is deposited forfeiture shall stand cancelled. In the case in hand, the date of auction was fixed, but the land was never put to auction. The petitioner has admittedly deposited the entire outstanding installment that too with 12% interest on his own, though under the instructions there was no requirement for deposit of the interest. In such circumstances, we are also of the opinion that there was no doubt about the bonafide of the petitioner and after depositing the balance installments he is entitled to the land which was purchased by him in the restricted auction. Thus, there appears no illegality or infirmity in the order and judgement passed by the learned Single Judge which may require our interference in this appeal. Apart from the merits we also find that there is an inordinate delay of 253 days in filing and 263 days in refiling the appeal. Having gone through the application made under Section 5 of the Limitation Act, 1963 seeking condonation of delay, we are of the opinion that there exists no good ground to condone the same and, thus, the appeal is liable to fail on this ground also.

9. In view of the aforesaid facts and discussion, the appeal being devoid of merits and heavily barred by limitation stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

06.08.2018
Amodh

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