

In the High Court for the States of Punjab and Haryana at Chandigarh

C.R. No. 8233 of 2016 (O&M)
Date of Decision: March 12, 2019

Chandigarh Administration, Chandigarh

... Petitioner

Versus

The Permanent Lok Adalat and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kapil Kakkar, Advocate,
for the petitioner.

Mr. Satish Kumar, Advocate,
for respondent No.2.

Amit Rawal, J. (Oral)

Short question involved in the present revision petition is whether the order of the Lok Adalat dated 02.06.2011 issuing direction to the respondent-petitioner herein to allot a site as per the entitlement, can respondent be entitled to challenge the rate of allotment.

The answer would be 'No'. The respondent invoked the provisions of the Legal Services Authority by invoking the provisions of Section 22-C(1) for allotment of a booth in the Motor Market as per the survey conducted in the month of June, 1997. Though the aforementioned claim was opposed, but ultimately following directions was passed:-

“We accordingly accept this petition and direct the respondent to allot him a site as per his entitlement.

Petitioner, of course, will comply with all such directions as may be essential before allotment is made and

possession is delivered. Order be complied within 2 months.

Announced.”

The afore-mentioned order was assailed in this Court vide CWP No. 15164 of 2012 and the same was dismissed vide order dated 08.08.2012

Mr. Kapil Kakkar, learned counsel, appearing on behalf of the petitioner submitted that vide letter dated 20.03.2014, the respondent was offered a booth measuring 8'x16' in the Motor Market, Sector 38 or 48, Chandigarh @ Rs.2,57,400/- per sq. yard. The total cost of the booth comes to Rs. 54,91,114/- and called upon to pay an amount of Rs. 5,49,111/- towards earnest money and a sum of Rs. 6,78,702/- towards service tax. The respondent filed execution application before the Estate Officer, UT, Chandigarh (Annexure P/8) on the premise that he was not in a position to deposit the amount. Keeping in view that concession was given vide letter dated 03.06.2014 (Annexure P/9) and time was extended upto 14.06.2014, but the same was not availed resulting into withdrawal of the offer on 18.07.2014 (Annexure P/10). Respondent instituted an execution application (Annexure P/11) resulting into passing of the impugned order after receipt of the reply wherein the Court below had exceeded the jurisdiction by going behind the order which is not permissible in law.

Learned counsel, appearing on behalf the respondent submitted that the expression, entitlement, was as per the Allotment of Sites on leasehold basis to Auto Spare Part Dealers and Auto Repair Mechanics in Chandigarh Scheme, 1999. There cannot be any fault in the aforesaid order as the petitioner submitted the application long time back and at that time rate was less and urges this Court for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper-book.

The offer at the rate and extension are not in dispute, as well as the directions given in the impugned order. From the perusal of the scheme and the directions, there is no reflection of any rate specified. If, at all, there is any grievance, nothing prevented the respondent to seek the clarification of the order by way of revision or writ. Be that as it may, in my view, in the execution application, the Executing Court, Chandigarh vide impugned order dated 6.9.2016 could not go behind the main order by interpreting the prices. When this Court call upon learned counsel for the respondent to point out any clause in Scheme of 1999 (Annexure P/1) pertaining to the rate of allotment site, the same could not be referred to.

In such circumstances, I am of the view the impugned order is perverse and suffers from infirmity. However, keeping in view the predicament, I deem it appropriate to direct the petitioner to again offer the booth at the same rate given in letter (Annexure P/7) calling upon the respondent to pay 10% of the total amount. Learned counsel for the petitioner submits that he would apprise the Department to accept the remaining amount in installments subject to any terms and conditions with some interests.

Present revision petition is disposed of by directing the petitioner to offer a booth to the respondent at the same rate giving 30 days time to deposit 10% amount and remaining in 6(six) installments along with the prevailing interest. It would be open to the respondent to pay in one short to avoid interest or to opt for installments. The afore-mentioned directions are given while exercising the power of superintendence. In case

the respondent do not avail the opportunity, this order cannot be enforced.

Accordingly, impugned order is set aside.

Revision petition is disposed of accordingly.

March 12, 2019

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(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No