

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

CWP No. 13346 of 2019

Date of decision : 22.08.2019

**Haryana Urban Development Authority, now Haryana Shehri Vikas
Pradhikaran**

.....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

HON'BLE MR. JUSTICE SUDHIR MITTAL

Present : Mr.Deepak Sabherwal, Advocate for the petitioner.

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DAYA CHAUDHARY, J.

Petitioner *i.e.* Haryana Urban Development Authority, now called as Haryana Shehri Vikas Pradhikaran (HSVP) has filed the present writ petition for quashing impugned order dated 12.03.2018 (Annexure P-6), whereby the revision petition filed by respondent No.2 had been allowed and also order of resumption dated 12.05.2017 (Annexure P-4), order dated 21.07.2017 (Annexure P-5) passed by the Administrator, Gurugram in appeal, were set aside and the Estate Officer, Rewari was directed to communicate the outstanding dues along with penalty of ₹50,000/- to respondent No.2 within a period of 15 days.

Briefly, the facts of the case as made out in the present petition are that originally a residential plot No.390 measuring 4 Marla, Sector – MTS at Urban Estate Kosli, Rewari was allotted to one Mrs. Rekha vide

allotment letter dated 31.12.2008 (Annexure P-1) for total consideration of ₹ 1,48,230/-. Thereafter, said plot was transferred in the name of Girish Kumar (respondent No.2) vide letter dated 30.08.2010. As per the condition of the re-allotment letter, the balance consideration amount was to be paid in instalments starting w.e.f. 31.12.2010 and ending on 31.12.2014. Respondent No.2 failed to deposit the balance amount and proceedings under Section 17 of the Haryana Urban Development Authority Act, 1977 were initiated. Several notices were issued but neither any reply was filed nor the payment was made. After giving opportunity of personal hearing, the plot was resumed vide order dated 12.05.2017 (Annexure P-4) on account of non-payment of amount of instalments to the tune of ₹ 2,05,108/- . Respondent No.2 filed appeal before the first appellate authority *i.e.* Administrator, HUDA, Gurugram on 25.05.2017 against the order of resumption dated 12.05.2017, which was also dismissed vide order dated 21.07.2017 (Annexure P-5). Thereafter, revision was filed on 28.09.2017, which was allowed vide order dated 12.03.2018 with the direction to pay all the outstanding dues along with penalty of ₹50,000/-.

Aggrieved by said order dated 12.03.2018 (Annexure P-6), the present petition has been filed by the petitioner by raising various grounds.

Learned counsel for the petitioner submits that after passing the order of resumption, there was no remedy of restoration of the plot. There was default on the part of respondent No.2 in making the payment, which had resulted into loss of revenue to the State as well as the department. The Revisional Authority while allowing the revision petition has failed to take

into consideration guidelines dated 10.01.2013 (Annexure P-7). Nothing was mentioned as to how respondent No.2 was not in a position to pay the outstanding amount. The only reason, which was mentioned, was that the amount was required for treatment of his grandfather in the year 2011, whereas as per the record, the treatment of his grandfather pertains to the year 2016. At the end, learned counsel for the petitioner submits that the impugned order passed in revision is totally illegal, unlawful and contrary to the policy/guidelines.

Heard arguments of learned counsel for the petitioner. We have also perused the impugned orders as well as other documents available on the record.

Facts of the case are not disputed. On perusal of impugned order dated 12.03.2018 (Annexure P-6) passed by the Revisional Authority, five yearly instalments w.e.f. 31.12.2010 to 31.12.2014 were to be deposited by respondent No.2. Said amount could not be deposited as per the schedule. The order of resumption was passed by the Estate Officer, Rewari. The grandfather of respondent No.2 also appeared before the Revisional Authority, who was ill at that time also and was not even in a position to walk. By taking a considerate view and by imposing penalty of ₹50,000/- in addition to the outstanding dues, the order of resumption dated 12.05.2017 as well as order dated 21.07.2017 passed in appeal by the appellate authority were set aside. A direction was also issued to deposit the amount within a period of 30 days. The relevant portion of the order passed by the Revisional Authority is reproduced as under :-

“6. I have heard the arguments advanced by the parties and gone through the record of the case present before me by the dealing official of Estate Office, Rewari. The plot in question was re-allotted in the name of the petitioner on 30.08.2010. On the date of re-allotment, five yearly instalments i.e. 31.12.2010 to 31.12.2014 were pending to be deposited by the petitioner. It is an admitted position of the petitioner that he did not deposit the instalments as per schedule. Therefore, plot in question was rightly resumed by the Estate Officer, Rewari and the petitioner could not prove any infirmly in the said resumption of plot. On the perusal of record of treatment annexed with the Revision Petition, it is revealed that the grandparents of the petitioner were actually undergoing treatment. The grandfather of petitioner also appeared before me who was visibly ill and was not even able to walk. Therefore, keeping in view the circumstances involved in the case, willingness of the petitioner to deposit the outstanding dues and taking a compassionate view in the matter, I deem it appropriate to accept the Revision Petition but subject to cost of Rs.50,000/- in addition to outstanding dues against plot in question. The resumption order dated 12.05.2017 and the order dated 21.07.2017 of the Administrator Gurugram passed in appeal are set aside. The Estate Officer Rewari is directed to communicate the outstanding dues along with penalty of Rs.50,000/- to the petitioner within a period of 15 days from the date of receipt of copy of this order which shall be deposited by him within 30 days from the date of demand failing which the resumption order dated 12.05.2017 shall revive without any further notice in this regard.”

The Revisional Authority by considering the circumstances and the fact that the grandfather of the petitioner was not well and because of his ailment, the balance amount could not be deposited, allowed the revision petition by setting aside the order of resumption. Not only a direction to deposit the outstanding amount was passed but a penalty of ₹50,000/- was also imposed.

By considering the facts and circumstances of the case, we find no infirmity/illegality in the impugned order passed by the Revisional Authority. Accordingly, finding no substance in the arguments raised by learned counsel for the petitioner, the present petition being devoid of any merit, is hereby dismissed.

**(DAYA CHAUDHARY)
JUDGE**

Dated : 22.08.2019

sunil yadav

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No