

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

C.W.P. No. 23136 of 2017 (O&M)
Date of Decision: 29th October, 2020.

Rachhpal Singh

...Petitioner

Versus

State of Punjab & Others

...Respondents

(Heard through Video-Conferencing)

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

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

Ms. Anu Pal, DAG, Punjab,
for respondent No.1-State.

Mr. Balwinder Singh, Advocate,
for respondents No.2 & 3.

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MEENAKSHI I. MEHTA, J.

By way of this petition, the petitioner, above-named, has sought the indulgence of this Court for issuance of a writ in the nature of certiorari quashing the orders dated 13.10.2003 and 01.07.2004, passed by respondents No.3 and 2 respectively and also the orders dated 13.09.2005 and 24.10.2006, passed by respondent No.1 whereby the allotment of House No.715, Category MIG(I), Sector 64-A, Urban Estate, S.A.S.Nagar, Mohali (here-in-after referred to as “the property in dispute”) in his name, has been cancelled and also the order dated 14.11.2008 passed qua his eviction from

the said property.

2. Shorn and short of unnecessary details, the averments as set forth by the petitioner in the instant petition, are that initially, the property in dispute was allotted to one Ajit Singh Trikha vide allotment letter No.5151 dated 04.03.1999 which was, subsequently, transferred in his (petitioner's) and his wife's name vide transfer order dated 03.10.2001. As per the terms and conditions of the said allotment letter, he was required to deposit monthly instalments in respect of the said property by 10th of each month but however, he failed to deposit the same in time and the amount, as calculated to be outstanding against him on this count till 30.06.2003, came out to be Rs.1,46,058/-. Then, a show cause notice was issued to him in this regard and the opportunities of being heard were also offered to him and thereafter, PUDA ordered for cancellation of the allotment of the property in dispute vide order dated 13.10.2003 (Annexure P-1).

3. The petitioner has, further, averred that he preferred an appeal against the order Annexure P-1, before the Additional Chief Administrator, PUDA, Mohali, i.e respondent No.2 which was dismissed vide order dated 01.07.2004 (Annexure P-3) while observing that an amount of Rs.2,35,018/- was outstanding against him, as on 30.11.2003 and neither he had deposited the said amount nor had appeared before the said Appellate Authority. He (petitioner) preferred a revision petition before respondent No.1 to assail order Annexure P-3 as passed by the Appellate Authority, while explaining that he was working in Punjab National Bank and had remained posted at Bihar and hence, he could not appear before the Appellate Authority in

connection with the hearing of the appeal and since he was also facing financial problems, he was unable to deposit the instalments within the stipulated time. The afore-said revision petition was dismissed in default on 13.09.2005 vide order Annexure P-5 as he had failed to make the payment of Rs.50,000/- as permitted by the revisional authority and also to appear before the said authority on the date fixed for hearing in the said proceedings. Then, he filed a review application against the said order and respondent No.1 granted another opportunity to him to deposit the entire amount with respondent No.3 along-with interest/penalty within one month but he again defaulted in paying/depositing the said amount. Resultantly, vide order dated 14.11.2008 (Annexure P-7), he was ordered to be evicted from the property in dispute.

4. It has also been averred by the petitioner that due to his posting in Bihar and Uttar Pradesh and also the fact that his family was residing at Hoshiarpur, the property in dispute remained locked and since he was the sole bread-earner of his family which included his aged parents, he could not pay the said outstanding amount. He has prayed that he be given the last chance to prove his bona-fides and he would pay the entire amount along-with the interest and cost as levied by the respondent-department.

5. Respondents No.2 and 3, in their joint written-statement, have contested the claim of the petitioner, inter-alia, on the grounds that order Annexure P-1 regarding the cancellation of the allotment of the property in dispute was passed against him on account of his failure to clear the outstanding dues, pertaining to the monthly instalments, after affording him

four opportunities of being personally heard vide letters dated 31.12.2001, 11.09.2002, 25.06.2003 and 29.07.2003. The appeal as preferred by him against the said order was also dismissed by respondent No.2 on the ground that he neither deposited the outstanding amount to the tune of Rs.2,35,018/- nor appeared before the appellate authority on the date of hearing of the same. The revision petition was dismissed in default as he had failed to comply with the order permitting him to make ad-hoc deposit of the amount of Rs.50,000/- and also to appear on the date as fixed for hearing thereof. The review application had also been dismissed vide a detailed and reasoned order. Finally, the ejectment order was passed against him with a direction to vacate the property in dispute within a period of 30 days but neither he has vacated the said property nor has paid the amount due from him. Even otherwise, he has filed the present writ petition after almost nine years and that too, without even providing any details regarding the tenure of his posting in Bihar and Uttar Pradesh as claimed by him and thus, his claim, as put-forth in this petition, lacks bona-fides on his part and hence, he does not deserve the relief as sought therein and therefore, this petition be dismissed with exemplary cost.

6. We have heard learned counsel for both the parties and have also perused the file thoroughly.

7. Learned counsel for the petitioner contends that vide order dated 10.10.2017 as passed in this petition, the petitioner was directed to deposit a sum of Rs.8,00,000/- with the respondents and the petitioner has already deposited the said amount accordingly and even otherwise, the petitioner

could not make payment of the monthly instalments and the entire outstanding amount as due from him because of the reasons that he remained posted at far-off places like Bihar and Uttar Pradesh and being the sole bread-winner, he was facing financial problem in maintaining his family including his aged ailing parents but he has, now, deposited the entire outstanding amount with the respondents and therefore, the impugned orders passed for cancellation of the allotment of the property in dispute as well as for his eviction from the same, deserve to be set aside.

8. However, learned State counsel as well as learned counsel for respondents No.2 and 3 have argued that the petitioner has filed this petition almost nine years after the eviction order was passed against him in the year 2008 and more than a decade after the review petition, as preferred against the order of the Revisional Authority, was decided in the year 2006 and moreover, his entire act and conduct in committing repeated defaults in the payment of the amount as outstanding against him in respect of the said property, speaks volumes of the fact that the bona-fides on his part to pay the same had been lacking throughout and in such circumstances, he does not deserve the relief as claimed in this petition.

9. After giving our thoughtful consideration to the arguments as advanced by learned counsel for both the parties and as discussed in the preceding paragraphs, we are of the considered opinion that this petition is devoid of any merit. As it explicit from the chain of events as canvassed by both the parties in their respective pleadings, the petitioner committed default in payment of the monthly instalments in respect of the property in dispute

after its allotment was transferred in his name long back in the year 2001. As mentioned in para 3 in the petition itself, he was issued a show cause notice and was afforded the opportunity of being heard before the order dated 13.10.2003 (Annexure P-1) was passed by respondent No.3 against him for cancellation of the allotment of the said property.

10. The appeal, as preferred by him against the said cancellation order, was dismissed vide Annexure P-3 wherein it has been categorically mentioned that he had failed to appear on the date fixed for hearing in the appeal and had also not deposited the amount of Rs.2,35,018/- as calculated to be outstanding against him till 30.11.2003. A perusal of order Annexure P-5, passed by respondent No.1 in the revision petition filed by the petitioner to assail order Annexure P-3, also reveals that vide interim order dated 09.08.2005, the Revisional Authority had permitted the petitioner (the revisionist therein) to make an adhoc deposit of Rs.50,000/- but neither he complied with the said interim order nor appeared before the Revisional Authority and resultantly, his revision petition had also been dismissed. Annexure P-6 is the order as passed by the Revisional Authority in the review application preferred by the petitioner against order Annexure P-5 and a bare reading of the same shows that the petitioner was again given an opportunity to deposit the entire amount, as outstanding against him, with respondent No.3 within a period of 30 days but as it explicit from the order dated 14.11.2008 (Annexure P-7), the petitioner had failed to avail even the said opportunity by paying/depositing the afore-said amount and resultantly, the eviction order was passed against him with the direction to vacate the

property in dispute within 30 days.

11. However, the petitioner woke up from his deep slumber about nine years thereafter and filed the instant petition. This Court again gave him the concession to deposit a sum of Rs.8,00,000/- vide order dated 10.10.2017, as passed in this petition, which is as under:-

“Although there is an enormous delay in filing the petition the impugned order having been passed in the year 2006, we issue notice of motion returnable on 29.01.2018. This is to enable the respondents to consider whether they are inclined to accept an enhanced offer from the petitioner that may be made. The respondents and the petitioner are directed to maintain status quo in respect of the property, but subject to the petitioner depositing with the respondents Rs.8 lacs without prejudice to the rights and contentions of the respondents. The respondents shall accept the amount without prejudice to their rights and contentions. The deposit of the amount shall not create any equities in favour of the petitioner.

Further, in the event of the petitioner losing the writ petition, the respondents shall be liable to the return the amount with interest at such rate as may be fixed by the Court and after deducting such amount as may be permissible for the use and occupation of the premises.

This order shall stand vacated in the event of the amount not being deposited by 23.10.2017.”

A bare perusal of the file makes it crystal clear that on

26.11.2018, it was observed by this Court that even till that day, the petitioner had deposited an amount of Rs.4,00,000/-only and had not complied with the said order dated 10.10.2017 and the bona-fides of the petitioner were under cloud and the above-said interim order was ordered to be vacated. The afore-discussed act and conduct of the petitioner unambiguously leads to the only irresistible conclusion that he had repeatedly defaulted in making the payment of the amount as due from him to the respondents and had not been careful and serious enough to avail the afore-mentioned concessions as given to him by the Appellate Authority, the Revisional Authority and finally, by this Court.

12. Though the petitioner claims that now, he has deposited the entire amount of Rs.8,00,000/- with the respondents but the afore-said order dated 10.10.2017 clearly speaks that such deposit would be without prejudice to the rights and contentions of the respondents and the same would not create any equities in favour of the petitioner. Keeping in view his own act and conduct as narrated in the preceding paragraphs, mere deposit of the said amount by him at this belated stage, in itself, cannot afford a plausible and justifiable ground to him to claim the relief as prayed for in this petition.

13. As a sequel to the fore-going discussion, it follows that this petition, being sans any merit, deserves dismissal. We order accordingly. However, the respondents shall refund the amount, as deposited by the petitioner during the pendency of this petition, after deducting the amount, as permissible, for the use and occupation of the property in dispute. They will also pay the interest on the net amount, as may be found refundable after

the said permissible deductions, @ 6% per annum till its refund to the petitioner.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

29th October, 2020.
seema

Whether speaking/reasoned?	Yes/No
Whether Reportable?	Yes/No