

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

**R.S.A.No.56 of 2021 (O&M)
Date of Order:17.02.2021**

KAMLESH DEVI

..Petitioner

Versus

HARYANA URBAN DEVELOPMENT AUTHORITY

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dr. Deepak Jindal, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The appellant-plaintiff has assailed the correctness of judgments and decrees passed by the Courts below dismissing her suit for declaration to the effect that she continue to be allottee of Booth No.40-P, General Market, Adampur and the resumption order passed by the Executive Officer, Haryana Urban Development Authority (HUDA) is null and void. She also prayed for decree of permanent injunction as well as mandatory injunction.

She purchased the booth in question in an open auction held on 14.11.1991 for a sum of Rs.3,11,000/-. It is not in dispute that she failed to deposit the complete amount of consideration inspite of repeated opportunities being granted. The Haryana Urban Development Authority (HUDA), at the first instance, imposed a penalty of Rs.9,490/- on 27.04.1995, but she did not come forward to deposit the fine. Thereafter, a

notice dated 29.02.1996, under Section 17(3) of the Haryana Urban Development Authority Act, 1977, was served on her threatening to resume the plot. She contacted the Chief Minister of the State and requested for refund of the amount deposited. The Chief Minister directed the plaintiff to go to the concerned officials. The plaintiff did visit the concerned officials and she was told to deposit the balance amount. She rather than depositing the amount again applied for refund. She was informed that she is not entitled to any refund as per the Rules. Thereafter, the plot in question was resumed on 19.04.1996. She filed an appeal, in which on 02.03.1998, once again an opportunity was given to the plaintiff to deposit the amount upto 15.04.1998. Admittedly, the plaintiff yet again did not deposit the amount. She chose to file this suit after a passage of more than 16 years.

Both the Courts below on appreciation of the evidence, have found that the plaintiff is not entitled to any relief.

This Court has heard learned counsel for the appellant at length and with his able assistance perused the paper book.

Learned counsel for the appellant submitted that there is no order of resumption of the plot and the plot continues to be in her name. He further submits that she is now prepared to deposit the amount. He relies upon the judgment in **Haryana Urban Development Authority vs. Sat Pal, 2018(2) RCR (Civil) 632.**

This Court has considered the submissions, however, finds no substance therein. The plaintiff while filing the suit has herself challenged the order of resumption. Still further, defendants have pleaded that the plot in question was resumed on 19.04.1996. She does not dispute that the order of resumption was challenged before the appellate authority. In these

circumstances, the arguments of learned counsel representing the appellant does not have legs to stand.

Next argument of the learned counsel that the plaintiff is still prepared to deposit the amount is required to be rejected, particularly, when the order of resumption was passed 24 years ago. In this case, the plaintiff has already been granted more than enough opportunities to deposit the amount. The property in question is a public property and since the appellant has failed to deposit the amount, even the equity is not in her favour.

The judgment relied upon by the learned counsel for the appellant is in the facts of the case and is primarily deciding with regard to the question of the jurisdiction of the civil court. In the present case, this Court is not dismissing the appeal on the ground of lack of jurisdiction. Therefore, the aforesaid judgment does not come to the rescue of the appellant.

In view thereof, the appeal is dismissed.

February 17, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No