

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

CR No.2111 of 2022 (O&M)
Date of decision: 6th July, 2022

M/s R.R. Foundation Engineers Pvt. Ltd.

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Aditya Grover, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. Advocate General, Haryana
for respondent No.1/State.

Mr. Praveen Mehta, Advocate for respondent Nos.2 to 4.

FATEH DEEP SINGH, J.

The brief facts leading to filing of the instant civil revision by revisionist M/s R.R. Foundation Engineers Pvt. Ltd. against respondents Haryana Shehri Vikas Pradhikaran and others are that in consequence of the respondent department issuing notices for allotment by bids of Shop-cum-Offices No.8 and 30 each measuring 143.25 square meters for a total sale consideration of ₹ 39,00,000/- and ₹ 39,52,000/- respectively, after due process of law petitioner M/s R.R. Foundation Engineers Pvt. Ltd. was found successful bidder and was issued allotment letter and who deposited the consideration price. It is by another quirk of fate the letters of intimation sent by the department to the petitioner allottee were received back undelivered, as a consequence of which vide orders dated 10.04.1998 the allotment stood cancelled on the ground that 15% of the

total sale consideration was not deposited within 30 days from the date of issuance of allotment letter. Aggrieved over the same, the allottee challenged the said cancellation and forfeiture of his amount and subsequently the respondent department re-allotted the said properties to the petitioners and in consequence of which the allottee had deposited requisite amount and possession of the SCOs was handed over but subsequently, it is alleged that the respondent department withdrew the re-allotment letter and which led to filing of the civil suit by the allottee whereby the learned trial Court passed ad-interim injunction dated 04.05.2022 restraining the department from auctioning or creating third party interest in the suit property. The same was challenged before the Court of learned Additional District Judge, Gurugram who vide impugned judgment dated 18.05.2022 allowed the appeal of the department. The same is subject matter of revision by the allottee M/s R.R. Foundation Engineers Pvt. Ltd. through the instant invocation.

Upon hearing Mr. Aditya Grover, Advocate for the petitioner; Mr. Gaurav Jindal, Addl. Advocate General, Haryana for respondent No.1/State; Mr. Praveen Mehta, Advocate for respondent Nos.2 to 4 and perusal of the records.

What apparently stands duly accepted by the respondents is that the present revisionist M/s R.R. Foundation Engineers Pvt. Ltd. were initially allotted the two premises in question comprising of Shop-cum-Offices and it is also not put to question that they had initially deposited the initial amount and subsequently on account of non-delivery of the

letter of allotment, the allotment stood cancelled. It is subsequent thereto the allottees were re-allotted the properties detailed above and in respect of which the Haryana Shehri Vikas Pradhikaran had accepted the amounts and it is subsequent thereto again the re-allotment has been cancelled without citing any reasons. To the specific query of this Court to the learned counsel for the respondent department as to under what provisions the same has come about when initially the department had accepted the amount and handed over possession and as to how the allottee can be denied the fruits of this allotment, learned counsel was at loss of words. Learned Civil Judge (Jr. Divn.) Gurugram in his order dated 04.05.2022 has clearly appreciated the fact that there has been re-allotment to the then plaintiff, present petitioner, of the properties which was cancelled after possession has been duly delivered to them and has rightly held that the department needs to be restrained from auctioning and creating third party interest in the suit property till disposal of the suit.

The learned first appellate Court in the impugned findings has lost sight of the fact that once re-allotment has been made and deposits have been accepted with delivery of possession, the department cannot without adopting due process of law throw out the petitioners from the property which have been legally allocated to them, and merely on the grounds that Civil Court jurisdiction is ousted had reversed the findings of the trial Court, certainly is wrong interpretation of the provisions of law and jurisdiction of the Civil Court under Section 9 CPC

is unfettered unless and until there is a statutory bar to it and which could not be highlighted by learned counsel for the respondents.

In the light of foregoing submissions, the impugned order under challenge suffers from illegality and perversity and needs to be set aside by way of acceptance of the present revision petition.

Ordered accordingly.

(FATEH DEEP SINGH)
JUDGE

July 6, 2022
rps

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