

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4418-2021

Date of Decision: 19.04.2022

Parmeshwari @ Panmeshwari

....Petitioner

VS

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashok Verma, Advocate
for the petitioner

Ms. Tanushree Gupta, DAG Haryana

SUDHIR MITTAL, J. (Oral)

The petitioner was allotted parcel of land measuring 22 kanals and 1 marla on 30.11.1976 out of the surplus pool. First installment was paid by her on 28.09.1977 and, accordingly, possession was delivered on 07.07.1978. According to Form U.S.-3 i.e. the certificate of allotment, the total purchase price was Rs. 6759.50 payable in ten annual equated installments. First installment was required to be deposited before possession was taken. This stipulation has been complied with but the remaining installments could not be deposited annually. They were, however, deposited in a lump sum alongwith interest on 27.05.2015. Soon thereafter, the petitioner submitted an application dated 06.07.2015 for entry of mutation but nothing was done thereupon even though repeated visits were made by the petitioner. Finally, legal notice dated 12.03.2020 was also submitted, yet, it did not yield any result and thus, the writ petition was filed.

In the written statement filed on behalf of the respondents, the facts have not been disputed. The submission therein is that on account of delay in

deposit of the purchase price, the petitioner has lost her right to purchase the land and, accordingly, an application has been filed under Section 18(6) of the Haryana Ceiling on Land Holdings Act, 1972 (hereinafter referred to as 'the Act') for cancellation of the allotment. This application has been filed on the basis of a direction issued by the State vide communication dated 10.03.2013 wherein the Collector, Rohtak has been ordered to return the amount deposited after 35 years and to file an application for cancellation of allotment.

Learned counsel for the petitioner submits that even though an allottee would become full owner only on payment of the full price, his/her allotment cannot be cancelled. The State can only recover the installments along with interest @ 10 % per annum as arrears of land revenue under Clause 11(2) of the Haryana Utilisation of Surplus and other Arrears Scheme, 1976 (hereinafter referred to as 'the Scheme'). Reliance has been placed on ***Sher Singh vs. Financial Commissioner (Revenue) and others, 2014 (3) RCR (Civil) 434.***

Learned State counsel has argued that deposit of remaining installments after 38 years was invalid in law and, accordingly, the allotment deserves to be cancelled.

Section 10(5) of the Act provides that possession has to be handed over either on payment of full price or the first installment thereof but ownership shall be transferred only upon payment of full price provided that the allottee does not transfer the land for a period of five years from the date of taking possession. Under the scheme Clauses 9, 10 and 11 provide for mode of payment, issue of certificate and delivery of possession and recovery of installments respectively. Clause 11(2) stipulates that in case the installments are not deposited in time the same can be recovered alongwith interest @ 10% p.a. as arrears of land revenue.

No statutory provision has been pointed out which may provide for cancellation of allotment, if the installments are deposited belatedly. Thus, the argument of

learned State counsel cannot be accepted.

In *Sher Singh (supra)* allotment was made on 11.01.1977 and the first installment was deposited on 13.07.1977. Remaining installments not having been deposited, the land was re-allotted to Sher Singh on 25.10.1999. The re-allotment was set aside by the prescribed authority under the Act and the appeal/revision against the said order failed. Writ petition as well as Letters Patent Appeal were also dismissed. The Division Bench held that the allotment can not be cancelled. This judgment is squarely applicable to the facts of this case. Under the circumstances, action allegedly taken for cancellation of the allotment is not sustainable in law.

The writ petition is allowed. The Collector, Rohtak is directed to ensure that the mutation is entered within four weeks from the date of receipt of certified copy of this order. Further action be also taken to ensure that the same finds mention in the subsequent jamabandies.

19.04.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No