

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

**CWP No.14520 of 2022(O&M)
Date of decision : September 08, 2022**

Gautam Dev Sood

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr.Mrigank Sharma, Advocate
for the petitioner.

Mr.Deepak Sabherwal, Advocate
for the respondents – HSVP.

HARINDER SINGH SIDHU, J.

The petition has been filed praying for quashing the order dated 11.01.2001 passed by the Estate officer, Haryana Urban Development Authority, Gurugram, whereby, the plot site No.10, Sector-7 Extension, Gurugram was ordered to be resumed and 10% of the amount of the plot ordered to be forfeited. Orders dated 26.05.2011 and 18.09.2012, whereby, the appeal and revision filed by the petitioner have been dismissed, have also been assailed.

The petitioner is a Dental Surgeon. He was the highest bidder at Rupees Eight lakhs in respect of Shop site No.10, Sector-7 Extension, Gurugram. Allotment letter dated 26.02.1996 was issued to him. He deposited 25% of the price of the plot (Rs.80,000/- deposited at the time of the bid plus Rs.1,20,000/- being 15% of the bid amount) within the time stipulated in the allotment letter. Thereafter, possession of the plot was

handed over to him on 10.06.1996. Building plan of the site was approved on 01.10.1996. As per the allotment letter the balance 75% price of the plot was to be deposited either in lump-sum within sixty days of the issue of the allotment letter or in six half yearly instalments. The first instalment would become due on the expiry of six months of the issue of the allotment letter. Each instalment was recoverable with 15% interest on the remaining amount.

It is the case of the petitioner that he could not deposit the 75% balance amount due to personal difficulties. His son is suffering from developmental disability with multiple medical problems like uncontrollable seizures/fits, eye problems, mental retardation. He cannot move without aid of another person. The mother of the petitioner was suffering from breast cancer and has remained under treatment at Tata Memorial Centre Mumbai since 1997-98. His father who was suffering from Parkinson's disease expired in the year 2000.

On 08.06.2000 notice under Section 17 (1) & (2) of Haryana Urban Development Authority Act, 1977 (for short "the Act") was issued to the petitioner but as he was in Darbhanga he did not receive the same. Subsequently, notice dated 17.11.2000 under Section 17(3) of the Act (Annexure P-6) was issued calling upon the petitioner to show cause within a period of thirty days as to why order of resumption be not made. However, even before the expiry of this thirty days period, another notice dated 06.12.2000 (Annexure P-7) was issued calling upon the petitioner to appear either in person or through a representative on 29.12.2000 in case he wished to be heard. Thereafter, order dated 11.01.2001 was passed by the

Estate Officer, HUDA, Gurugram for resumption of the plot and forfeiture of 10% of the price of the plot.

The petitioner preferred appeal under Section 17(5) of the Act against the order, which was dismissed by the Administrator vide order dated 26.05.2011 (Annexure P-9). Against the order of the Administrator, he preferred revision petition under Section 30(2) of the Act which was also dismissed vide order dated 18.09.2012 (Annexure P-1).

After the dismissal of the revision petition, the petitioner kept on pursuing the matter at various levels. He addressed a mercy petition dated 10.12.2012 (Annexure P-10) before various authorities including the Chief Minister pleading that a sympathetic view be taken. He addressed another communication/ appeal dated 01.05.2016 (Annexure P-12) to the Chairman, HUDA- Chief Minister. Meanwhile, the property was put up for E-auction. On representations moved by the petitioner, the E-auction of the plot was cancelled. He, thereafter, addressed another communication/ appeal dated 17.01.2017 (Annexure P-15) to Hon'ble Chief Minister pleading, *inter alia*, that there was violation of the provisions of Section 17 of the Act inasmuch as a proper notice of thirty days was not given. The petitioner received information under the RTI Act (Annexure P-17) on 03.07.2019 that notice under Section 17(3) was issued on 17.11.2000, notice under Section 17(4) was issued on 06.12.2000 and plot was resumed vide order dated 11.01.2001.

The appeals/ representations have not been decided by the authorities.

It is argued by Mr. Sharma, Ld. Counsel for the petitioner that

the authorities have passed the impugned orders mechanically without taking into consideration the dire family circumstances because of which the petitioner could not make the deposits in time. There is violation of the statutory provisions as notice under Section 17(4) was issued even before the expiry of the thirty days period after the issue of notice under Section 17(3) of the Act.

Mr. Sabharwal, Ld. Counsel for HSVP (previously known as 'HUDA') on the other hand contended that the petitioner has already availed statutory remedies. His revision petition under Section 30(2) of the Act was dismissed on 18.09.2012. He has filed this petition after a delay of 10 years. His complaint filed at the CM Window was rejected on 09.04.2021 and it was duly conveyed to the petitioner.

Having heard Ld. Counsel for the parties, we find that there is no merit in this petition.

The petitioner purchased the plot at an auction for Rupees Eight lakhs. He was issued the allotment letter on 26.02.1996. He deposited 25% of the price (Rs.80,000/- deposited at the time of the bid plus Rs.1,20,000/- being 15% of the bid amount) within the stipulated time. Thereafter, possession of the plot was handed over to him on 10.06.1996. As per the allotment letter, the balance 75% price of the plot was to be deposited either in lump-sum within sixty days of the issue of the allotment letter or in six half yearly instalments. The first instalment would become due on the expiry of six months of the issue of the allotment letter. Each instalment was recoverable with 15% interest on the remaining amount. However, after deposit of 25% amount, the petitioner did not pay any single

instalment. As recorded in the order of the Administrator (Annexure P-9) the petitioner was issued notice vide memo No.1258 dated 08.06.2000 under Section 17(1) & (2) of the Act for deposit of Rs.12,19,201/-. Penalty amounting to Rs.1,21,920/- was imposed vide memo No.5190 dated 23.10.2000. Despite this, the appellant failed to deposit the dues. So, show cause notice under Section 17(3) was issued vide memo No.5868 dated 17.11.2000 and notice under Section 17(4) was issued vide memo No.6823 dated 06.12.2000 for personal hearing on 22.12.2000, but the appellant neither appeared before the Estate Officer nor deposited the due amount. Therefore, the plot was resumed by the Estate Officer vide his memo No.37 on 11.01.2001 for non-payment of instalments. Thereafter, on 05.12.2001 the petitioner made a request for refund of deposited amount of Rs.1,20,000/-. This amount was refunded on 11.02.2002 vide cheque No.425732.

The petitioner filed appeal against the resumption order dated 11.01.2001 on 02.01.2008 i.e., after a delay of about seven years. No explanation was furnished for that delay. The appeal was dismissed being time barred.

Though, no case on merits was made out, however, taking into account the factum of the illness of the son of the petitioner, the revisional authority asked the counsel for the petitioner to ascertain as to whether the petitioner was ready to retain the site at the current price and also give an undertaking that he would not sell the property for the next ten years. In response to this it was pointed out on behalf of the respondent-HSVP that the factum of disability of the son of the petitioner had already been taken

into consideration by the Administrator HUDA, Gurugram while setting aside the resumption order passed by the Estate Officer in respect of SCF No.31, Sector-4, Gurugram which was in the name of the petitioner. It was also pointed out that the petitioner was running his own nursing home in another booth site in Sector-14 Gurugram which was also in the name of the petitioner.

In view of these facts, no case to restore the site to the petitioner at the current price was also made out. The revision was dismissed.

Thus, it is clear that the petitioner had only deposited 25% of the price of the plot. He has failed to deposit even a single instalment out of the balance 75% amount despite notices sent by the respondents at the address provided by the petitioner in the bid-sheet duly signed by him. There was an unjustifiable delay of seven years in filing the appeal before the Administrator against the order of resumption dated 11.01.2001 passed by the Estate Officer. After the resumption order, the petitioner applied for and accepted refund of Rs.1,20,000/- (i.e. 15% of the price of the plot deposited by him), 10% of the price of the plot having been ordered to be forfeited by the impugned order of the Estate Officer.

The order has been passed in accordance with the conditions in the allotment letter. Conditions No.8 and 9 of the allotment letter are as under:

“8. In case the instalment is not paid by the 10th of month following the month in which it falls due the Estate Officer shall proceed to take action for imposition of penalty and

resumption of plot in accordance with the provisions of Section 17 of the said Act.

9. *In the event of breach of any other condition of transfer. The Estate Officer may resume the land in accordance with the provisions of Section 17 of the Act.”*

The contention of the petitioner that he had not been given thirty days time to show cause as provided under Section 17(3) of the Act is without merit. The show cause notice under Section 17(3) was issued on 17.11.2000. Thereafter, another notice dated 06.12.2000 for personal hearing on 22.12.2000 was issued. The petitioner did not appear in response to any of these notices. Then, the resumption order was passed on 11.01.2001. On 05.12.2001 the petitioner made a request for refund of deposited amount of Rs.1,20,000/-. This amount was refunded to him on 11.02.2002.

The petitioner filed appeal against the order of resumption after a delay of about seven years. The present petition has been filed about ten years after the dismissal of his revision petition. It is barred by delay and laches. The mere fact that during this period the petitioner kept on filing non-statutory representations cannot help the petitioner in getting over the inordinate delay in filing the petition.

Dismissed.

(LALIT BATRA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

September 08, 2022

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No