

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

Sr. No.103

Date of Decision : November 16, 2022

Civil Writ Petition No.18251 of 2019

Prescribed Authority-cum-Sub Divisional Officer (Civil) Rohtak

...Petitioner

Versus

Ishwar Singh and another

...Respondents

2.

Civil Writ Petition No.18406 of 2019

Prescribed Authority-cum-Sub Divisional Officer (Civil) Rohtak

...Petitioner

Versus

Savitri Devi and another

...Respondents

3.

Civil Writ Petition No.17437 of 2019

Prescribed Authority-cum-Sub Divisional Officer (Civil) Rohtak

...Petitioner

Versus

Puran Singh and another

...Respondents

4.

Civil Writ Petition No.18116 of 2019

Prescribed Authority-cum-Sub Divisional Officer (Civil) Rohtak

...Petitioner

Versus

Shyam Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Tanushree Gupta, DAG, Haryana.

SUDHIR MITTAL, J. (ORAL)

This judgment shall decide all the above mentioned cases as identical facts and law are involved therein. Challenge is to order dated 13.01.2015 passed by a Division Bench of Financial Commissioners.

Ishwar Singh s/o Kapoora (Respondent No.1) was allotted land under Section 7 of the Haryana Utilization of Surplus and other Areas Scheme, 1976 being a landless person on 03.12.1976. The consideration was payable in ten equal annual instalments. The first instalment was deposited on 14.03.1977 well within time. The remaining instalments were delayed and were deposited in a lumpsum on 23.01.2008 i.e. after more than 28 years. Thereafter, he sought issuance of Form US-4 but the same having not been issued, a revision petition was filed. The State of Haryana also filed a revision petition seeking setting aside of the allotment made on 03.12.1976 on the ground of non-deposit of instalments in time. Vide the impugned order, a Division Bench of Financial Commissioners has allowed the revision petition filed by respondent No.1 and has dismissed that filed by the State of Haryana and thus, the present writ petition has been preferred by the State of Haryana.

The order does not call for any interference as this Court has already held in ***Parmeshwari @ Panmeshwari vs. State of Haryana and others*** passed in CWP No.4418 of 2021, decided on 19.04.2022. that delay in deposit of instalments would not deprive the allottee of his right to allotment as a landless person. The only remedy available to the State is to recover the instalments as arrears of land revenue. The arrears have already been deposited in lumpsum and no recovery is to be effected. Relevant observations from ***Parmeshwari @ Panmeshwari (supra)*** are reproduced

below for ready reference.

“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.”

In view of the above, the writ petitions have no merit and are dismissed.

November 16, 2022

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes