

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.2974 of 2024
Date of decision:12.02.2024

Satya Wanti

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Parshant Sethi, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Ms. Kushaldeep Kaur and
Mr. Shivam Garg, Advocate
for the respondents-HSVP.

VIKRAM AGGARWAL, J.

1. By way of the instant writ petition, the petitioner-Satya Wanti assails the order dated 28.04.2022 (Annexure P-1) and 07.07.2022 (Annexure P-3) by way of which the appeal and revision petition preferred by the petitioner against the order of resumption were dismissed.

2. The facts, as set out in the petition are that Plot No.215, Sector-5 Hansi, measuring 332.40 square meters (hereinafter referred to as the disputed plot) was allotted to one Rajpal on 13.06.2012 for a tentative price of ₹22,43,700/- (twenty two lakhs forty three thousand seven hundred only).

- (i). Subsequently, it was re-allotted in favour of the petitioner.
- (ii). After paying 25% of the total premium, no installments were paid by the petitioner on account of some compelling circumstances as she

was living in a joint family and all dealings were done by her brother-in-law. After his death, she came to know about the status of the plot.

(iii). The plot had been resumed on account of non-payment of the outstanding amount from 14.10.2011 to 27.11.2017. The stand of the petitioner is that no notice had been received by her.

(iv). After she acquired knowledge of the order of resumption, she preferred an appeal against the order of resumption but the same was dismissed vide order dated 28.04.2022 (Annexure P-1) on the ground of the same being barred by limitation.

(v). A revision petition was preferred against the said order but the same was also dismissed on 16.05.2022 (Annexure P-2) leading to the filing of the present writ petition.

3. We have heard learned counsel for the parties.

4. Learned counsel for the petitioner submits that the action of the respondents in resuming the disputed plot is illegal and arbitrary and is thus not sustainable. He submits that being a woman living in a joint family, the petitioner was not aware about the proceedings initiated by the respondents and accordingly, could not respond to the same. It has been submitted that the petitioner is willing to clear the outstanding amount so that the plot may be restored to her.

5. On advance copy having been served, Sh. Ankur Mittal, learned Additional Advocate General, Haryana along with Ms. Kushaldeep Kaur, Advocate and Mr. Shivam Garg, Advocate is present in the Court. He submits that the orders under challenge do not call for any interference keeping in view the conduct of the petitioner. Mr. Mittal submits that no

amount beyond 25% was paid nor the notices issued were responded to as a result of which the plot was rightly resumed.

6. We have considered the submissions made by learned counsel for the parties.

7. For reasons best known to the petitioner, the petitioner has not chosen to place on record the allotment letter issued in favour of the original allottee Sh. Rajpal, the document of title vide which the plot was transferred to the petitioner, the re-allotment letter issued in favour of the petitioner and the order of resumption. The terms and conditions of allotment, the schedule of payment, the procedure to be followed in case of non-payment etc., was to be noticed from the aforesaid documents. The fact that the petitioner has chosen not to annex the said documents with the petition also points towards the conduct of the petitioner indicating an attempt to conceal vital documents essential for arriving at a just decision. An adverse inference, is therefore, drawn against the petitioner on account of the same.

8. A perusal of the impugned order reveals that notices under Section 17(1) and 17(2) of the Haryana Shehri Vikas Pradhikaran Act, 1977 (hereinafter referred to as the HSVP Act) were duly issued to the petitioner way back in July and December 2016 respectively. However, neither was any response given to the said notices nor anyone appeared before the authorities or deposited the outstanding amount. Faced with this, vide order dated 22.03.2017, a penalty was imposed which was also not deposited after which notice under Section 17(3) of the HSVP Act was issued on 30.05.2017 and another final opportunity was given by way of notice dated 07.11.2011 issued under Section 17 (4) of the HSVP Act but the outstanding

amount were not deposited. In-fact, the notices were not responded to. Ultimately, the plot was resumed vide order dated 27.11.2017.

(i). Against the order of resumption dated 27.11.2017, an appeal was preferred in January 2022, which was dismissed on 27.04.2022 noticing the default from 2011 to 2017 and the delay of four years in filing the appeal. The medical record annexed by the petitioner with the appeal was also considered but the same was not found to support the case of the petitioner.

(ii). In the revision petition also, a similar view was taken vide order dated 07.07.2022.

(iii). It is well settled that resumption should normally be a weapon of last resort. It has so been held in a number of judgments *viz* **M/s Teri Oat Estates (Private) Limited Vs. U.T., Chandigarh, 2004(1) HRR659 SC** and **Dheera Singh Vs. U.T. Chandigarh Administration, LAWS(P&H)-2012-11-35, decided on 08.11.2012**. However, where the allottee is a chronic and ranked defaulter and the default is willful which in the present case is, there would be no hesitation in invoking the said provisions. As has been noticed above, the petitioner not only defaulted in payment of the outstanding amount from 2011 to 2017 but also did not participate in the proceedings and availed the remedies after considerable delay which could not be condoned. To top it all, even while filing the instant petition before this Court, an attempt has been made to conceal the true facts by not annexing the relevant documents. All this definitely lead us to the conclusion that the conduct of the petitioner is not *bona fide* and under the circumstances we are not inclined to grant any relief to her. It has to be borne in mind that while invoking the jurisdiction of this Court under Article

226 of the Constitution of India, anyone and everyone would be expected to be fair and actions of every such litigant would be expected to be transparent.

In view of the aforesaid discussion, we are not inclined to interfere in the matter and accordingly, finding the writ petition to be devoid of merit, we dismiss the same.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

February 12th, 2024
Rekha

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