



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

CWP-3763-1998

Date of Decision:06.11.2024

KULDEEP SINGH

..... Petitioner

Versus

STATE OF PUNJAB THROUGH SECRETARY AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. G.S. Madaan, Advocate with
Ms. Richa Sharma, Advocate for the petitioner.

Mr. G.S. Bhullar, AAG, Punjab.

Mr. J.S. Virk, Advocate for respondent No.5.

Mr. Harsh Chopra, Advocate for respondent No.6.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 14.01.1998 (Annexure P-13) passed by respondent No.4 and direction to respondents No.1 and 2 to deliver possession of land sold to him in public auction and issue sale certificate.

2. The official respondents on 13.12.1968 conducted auction of Plot No.95- Garhshankar, measuring 10K-6M comprising of khasra Nos. 1280, 1281, 6861/1283, 1284, 1285 and 1286. The land which was put on auction was urban acquired evacuee plot. The petitioner participated in the auction process and was declared highest auction bidder. The auctioned price was Rs.15,200/-. The petitioner deposited earnest money of Rs.3040/- vide receipt dated 13.12.1968 (Annexure P-2). The petitioner deposited balance money i.e. Rs.12,160/- vide challan dated 08.04.1974. The sale was completed in favour of the petitioner.



3. During consolidation proceedings of land holdings, the khasra numbers sold to petitioner were changed. The petitioner became entitled to land comprised in khasra number 44//2/3 (3-13), 44//8/1 (1-02), 44//9/1 (2-7), 44//1/2 (1-11).
4. Tehsildar (Sales), Headquarters (Jalandhar) vide letter dated 07.07.1980 (Annexure P-5) sought report with respect to new khasra numbers assigned against old khasra numbers for issuance of certificate in favour of the petitioner. A long communication took place between officials, however, sale certificate could not be issued. The relevant extracts of letter dated 07.07.1980 read as:

“To
The Tehsildar (Sales)
Hoshiarpur

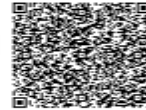
No.621/TEH, dated Jullundhar the 7.7.80

Subject: Issue of report in respect of Plot No.95,
Garshankar, Distt. Hoshiarpur.

Memorandum
Please refer to this Department Memo. No.7827, dated 23.5.1974 and subsequent reminders No.3179 dated 17.2.1977, No.5711 dated 24.3.1977 and 14342, dated 17.8.1977, on the subject cited above.
2. No reply has so far been received inspite of repeated reminders. It is again requested that the new Khasra No. against the old khasra numbers mentioned below may kindly be supplied to this department at an early so that the Sale Certificate could be issued to the auction purchaser.

Plot No.95- Garshankar	
Khasra No.	(Area)
1280	2-8
1281	1-17
6861/1283	0-13
1284	1-3
1285	1-7
1286	2-18
Total: 10-5	

sd/-
for Tehsildar (Sale) Hqrs-cum-M.O.
Rehabilitation Department.”



5. One person namely Rulia Ram S/o Genda Ram who belonged to Backward Class, vide letter dated 05.03.1976 (Annexure P-7) requested Tehsildar, Garhshankar to declare him Gair Marusi occupant since 1969 upon half share of evacuee land in Northern side of new khasra No.44//1/2 (1K-11M) situated in Urban Estate, Garhshankar. The Tehsildar (Sales), Hoshiarpur, transferred half share of aforesaid khasra number in favour of Rulia Ram on the basis of his alleged possession as Gair Marusi. The said allotment was made in terms of policy of the State Government.

6. The petitioner preferred a representation before Deputy Commissioner-cum-Chief Sales Commissioner, Hoshiarpur in terms of Section 10 of The Punjab Package Deal Properties (Disposal) Act, 1976 (for short '1976 Act'). The said authority set aside allotment of land in favour of Rulia Ram.

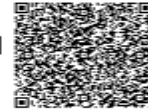
7. Rulia Ram filed a petition before Commissioner, Jalandhar Division under Section 15 of 1976 Act who reversed order dated 18.04.1985 passed by Deputy Commissioner, Hoshiarpur. The petitioner preferred appeal before Financial Commissioner (Appeals), Punjab who vide order dated 11.10.1990 (Annexure P-10) reversed order passed by Commissioner, Jalandhar and restored the order passed by Deputy Commissioner, Hoshiarpur. The Financial Commissioner (Appeals) held that on deposit of auction money, the transaction of petitioner attained finality and there is no provision to put the land in question for re-auction. The relevant extracts of order dated 11.10.1990 (Annexure P-10) read as:

“6. I have heard the Id. counsels for the parties and



perused the record. The plot in question was put to auction in the year 1968 which was purchased by the petitioner for Rs.15200/- on 13.12.1968 which was accepted on 22.2.1969. The plot No. is 95 comprising khasra No.1280, 1281, 6861/1283, 1284,1285 and 1286 measuring 10 kanals 6 marlas situated in Garhshankar. The initial deposit of Rs.3040/- was made by the petitioner and the balance amount could not be deposited as the case remained pending before the settlement Authorities of Government of India till it was transferred to the Punjab Government under the Administrative and Financial arrangement of 1979. The plot was cancelled due to non payment of balance amount on 18.12.1973 but he was allowed to deposit the balance amount by 8.4.1974 as per orders of Chief Settlement Commissioner dated 11.3.74. After the deposit of the balance amount of Rs.12160/- the transaction in favour of the petitioner attained finality and there was no occasion to put the plot for reauction by the rehabilitation department. Keeping these facts in view the Chief Sales Commissioner rightly accepted the revision petition of Kuldip Singh on 18.4.1985 which has been set aside by the Id. Commissioner on 7.5.86 on the ground that Rulia Ram respondent No.2 had purchased the plot on 24.4.1979 on the basis of possession. This was uncalled for, as after the payment of balance amount Kuldip Singh became entitled to transfer of the plot in question. In view of this the petition is accepted the orders of Commissioner Jalandhar Division dated 7.5.1986 are set aside and the orders of Chief Sales Commissioner, dated 18.4.1986 are restored.”

8. A part of land sold to petitioner was re-auctioned in favour of Puran Singh and Avtar Singh. The Deputy Commissioner set aside sale



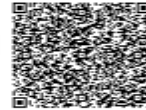
in favour of Puran Singh and Avtar Singh vide order dated 18.04.1985 (Annexure P-8).

9. Rulia Ram filed Civil Writ Petition No.15003 of 1990 before this Court assailing order passed by Financial Commissioner (Appeals) whereby land allotted to him was cancelled. The said petition was dismissed for non-prosecution on 16.12.2010. Rulia Ram never filed application seeking restoration of said writ petition meaning thereby order dated 16.12.2010 has become final and Rulia Ram has waived his right. It is further apt to mention here that Puran Singh and Avtar Singh did not challenge orders passed by authorities whereby re-auction in their favour was set aside.

10. Mr. G.S. Madaan, Advocate and Ms. Richa Sharma, Advocate for the petitioner submit that sale between petitioner and authorities became final as soon as auction money was accepted by Chief Settlement Commissioner, Punjab. The land sold to petitioner could not be utilized for any other purpose unless and until auction made in favour of petitioner was recalled. Till date the respondent has not cancelled or recalled auction made in favour of petitioner and claim of Rulia Ram, Puran Singh and Avtar Singh has already been turned out, thus, there is no reason to delay issuance of certificate in favour of petitioner.

With respect to claim of respondent No.6, Mr. Madaan submits that khasra number allotted/sold to respondent No.6 are entirely different from land claimed by petitioner, thus, there is no dispute between the parties.

11. Mr. G.S. Bhullar, AAG, Punjab expressed his inability to controvert the fact that land claimed by petitioner was sold to him in



public auction and he has deposited auction price. He further submits that possession of land could not be handed over and sale certificate could not be issued because of consolidation proceedings.

12. Mr. J.S. Virk, Advocate for respondent No.5 expressed his inability to controvert the factual position that land in question was sold in public auction in 1968 and petitioner has deposited auction money.

13. Mr. Harsh Chopra, Advocate for respondent No.6 submits that in view of statement of petitioner with respect to status of respondent No.6, he has nothing to submit except to say that purchase of respondent No.6 is independent from transaction made between petitioner and State authorities.

14. I have heard the arguments of learned counsel for the parties and perused the record.

15. From the perusal of record, it is evident that petitioner purchased urban acquired evacuee Plot No.95- Garhshankar, measuring 10K-6M. The said plot was sold in public auction conducted by Settlement authorities, Government of India. The petitioner deposited auction money in two installments i.e. Rs.3040/- at the time of auction and Rs.12160/- at later point of time. The auction conducted by respondent is not disputed. Till date neither auction has been cancelled nor acceptance of bid of petitioner has been recalled. It means there is no dispute with respect to sale of land in question to petitioner for a consideration. The matter against Rulia Ram, Puran Singh and Avtar Singh who became at one or another stage claimant of land in question has already been settled. The respondent was duty bound to hand over auctioned land free from encumbrances and issue sale certificate. The



respondent in the name of consolidation proceedings has deprived the petitioner from his valuable right of property. The act of State amounts to violation of not only terms and conditions of public auction but also constitutional right of property guaranteed by Article 300A of the Constitution of India.

16. In the wake of above discussion and findings, the instant petition deserves to be allowed and accordingly allowed. The respondents are hereby directed to issue sale certificate in favour of petitioner *qua* land in question within 1 month from today and further hand over possession to him.

(JAGMOHAN BANSAL)
JUDGE

06.11.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>