

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

CWP No.6997 of 2023 (O&M)

Reserved on: 05.12.2023

Date of Pronouncement: 26.02.2024

Jagmender

.....Petitioner

Versus

State of Haryana and others

..... Respondents

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

Present : Mr.Sandeep Lather, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. A.G. Haryana with
Mr. Deepak Bhardwaj, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate for HSVP.

ARUN PALLI, J. :

In brief the case set out in the petition is: that vide allotment letter dated 24.12.2008, a residential plot No.35 (1 kanal) in Sector 8, Urban Estate, Jind, was allotted to the petitioner on freehold basis. The tentative price of the plot was Rs.29,10,680/- which was to be paid in 6 yearly installments till 24.12.2014. Per terms of allotment, the petitioner deposited 10% of the sale consideration, within 30 days, from the issuance of the allotment letter. And thereafter, he also remitted the first installment on 24.12.2009 and the second installment on 23.12.2010. The total amount deposited by the petitioner till 24.12.2010 was Rs.14,85,300/-. However, owing to his ill health and the loss that he suffered because of the damage to his crops, he was unable to deposit the remaining installments. Whereafter, on 8.11.2017, he wrote to the Estate Officer, HUDA, Jind, that although he was willing to deposit all the pending dues but the amount was not being accepted by the concerned officials. But as

his request failed to evoke any response and being hapless, he moved an application dated 30.01.2018, to surrender the allotted site and sought refund. Accordingly, the competent authority, vide order dated 07.02.2018, after forfeiting 10% (Rs.4,99,145/-) of the amount deposited by the petitioner, ordered refund of Rs.9,90,445/-. The petitioner protested the forfeiture. And, vide application dated 12.10.2018, required the authority to either refund even the forfeited amount or he would withdraw his request to surrender the allotted site and deposit the balance consideration.

However, there being no response, the petitioner, assailed the order dated 07.02.2018, in appeal under Section 17(5) of The Haryana Shehri Vikas Pradhikaran Act, 1977 (for short 'the Act') before the Chief Administrator, HUDA (Haryana). But, vide order dated 27.09.2021 (P-9), the Appellate Authority dismissed the appeal, for not only the petitioner had perpetually defaulted in payment of installments, he also, subsequently, on his own volition, surrendered the allotted site. Whereafter, even the revision, preferred by the petitioner, under Section 17(8) of the Act, was dismissed by the Revisional Authority on 09.03.2022. Thus this petition.

Learned counsel for the petitioner submits that it was owing to the circumstances beyond the act and control of the petitioner he was unable to deposit the remaining installments. He submits that in the given circumstances the petitioner moved the authority to surrender the site and refund the amount that he had deposited. Therefore, he submits that forfeiture of an amount of Rs.4,99,145/- was apparently unjust and arbitrary. Particularly, when the petitioner was not even afforded any opportunity or hearing before the said order was passed. In fact, one of the officials of the Estate Officer, HSVP, Jind, only misguided the petitioner and obtained his signatures on blank papers

to move the authority for surrender. In any case, it was urged that immediately, after the order dated 07.02.2018 (ibid) was passed, vide application dated 12.10.2018, the petitioner sought withdrawal of his request, for surrender, as he was ready/willing to deposit the balance sale consideration. Thus, the authority ought to have accepted the alternate prayer and restored the allotted site. Accordingly, he placed reliance upon a decision of the Full Bench of this Court rendered in **CWP No.16634 of 2008 (Dheera Singh Vs. UT Chandigarh Admn. & Ors.)**, decided on 08.11.2012.

We have heard learned counsel for the parties and perused the records.

Concededly, vide allotment letter dated 24.12.2008, the petitioner was allotted a residential site measuring 1 kanal. The tentative price of the plot was Rs.29,10,680/-. Post deposit of 10% of the sale consideration, the balance was to be remitted in 6 equal yearly installments:-

Installment Number	Due date	Principal	Possession Offer Interest	Total
1	24.12.09	363825/-		
2	24.12.2010	363825/-		
3	24.12.11	363825/-		
4	24.12.12	363825/-		
5	24.12.13	363825/-		
6	24.12.14	363825/-		

The petitioner only deposited the first and second installments and failed to deposit the rest. As per the case, set out in the petition itself, after nearly 6 years of submitting the second installment, he approached the authority in April 2016, to ascertain the exact amount, he was required to deposit, to regularize his account. And, per the account statement (P2), issued

by the authorities, apart from the penalty of Rs.2,79,859/-, Rs.30,84,247/- were the total outstanding dues, the petitioner was required to remit. The records show that repeated notices dated **14.01.2015**, **23.06.2016** and **14.08.2016**, under Section 17(1), for resumption and forfeiture, for breach of conditions of transfer, under the Act, were issued to the petitioner. Whereupon, vide letter dated 19.07.2016, addressed to the Estate Officer, HSVP, Jind, the petitioner, owing to purported financial constraints, requested for more time to clear all pending dues. But, since despite passes of time and option to deposit the requisite amount, the default continued, the petitioner was served with the notices, under Section 17(3) dated 06.06.2017 and Section 17(4) dated 11.09.2017, 21.11.2017 and 22.12.2017, by the Estate Officer, HSVP, Jind, but to no avail.

Thus, apparently, the petitioner, on his own volition, opted to move an application dated 30.01.2018, seeking necessary approvals/sanctions to surrender the allotted site and prayed for refund. His version: that he was misled by an official in the Office of the Estate Officer, HSVP, Jind, to move the said application, apparently lacks credibility. For, post refund, the petitioner, moved two letters dated 04.08.2018 and 27.08.2018, wherein, he requested the authorities to refund even the forfeited amount but did not even remotely accuse any such official for having misguided him. Significantly, we may point out that petitioner has not even appended the copy of the application 30.01.2018 with the petition, which in our opinion, would have had a decisive bearing on the issue that is sought to be raised. Concededly, the competent authority, upon consideration of his request to surrender the site, accorded the necessary approvals/sanctions. And, post forfeiture, Rs.9,90,445/- were even credited in his bank account. Thus, institution of an appeal, against an order

dated 07.02.2018 (ibid), after a year on 25.04.2019, was merely speculative and an afterthought. Further, once the site was surrendered, it had come to vest in the authority. And, as a result, the petitioner was left with no right, title or interest therein notwithstanding that he was ready/willing to deposit the balance premium/consideration. The positive case, set out by the HSVP, has been: that 10% of the amount, deposited by the petitioner, was forfeited, in terms of the HSVP policy dated 07.05.1999. It is not the case of the petitioner either that no such policy was existed or operative. In so far as, the decision rendered by the Full Bench in **Dheera Singh (supra)**, in our considered opinion, the same has no bearing on the present case. For, per the conclusion, arrived at therein: that resumption order passed by the Estate Officer should be the last resort and the default has to be willful to initiate stringent proceedings like resumption. Whereas, the site in question was never resumed. But was voluntarily surrendered by the petitioner. Thus, the petition lacks *bona fide* as also the merit.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the orders passed by the authorities in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution of India.

The petition is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

26.02.2024
Manoj Bhutani

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