

2024:PHHC:067784-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.18625 of 2017  
Reserved on 24.04.2024  
Pronounced on:15.05.2024.

**Gurdial Singh**

....Petitioner

Versus

**State of Punjab and others**

....Respondents

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

Present: Mr. Sunil Agnihotri, Advocate  
for the petitioner.

Mr. Jastej Singh, DAG, Punjab.

Dr. Malvika Singh, Advocate  
for respondents No.2 to 5.

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**VIKRAM AGGARWAL, J.**

1. The petitioner prays for the issuance of a writ of *certiorari* quashing the order dated 09.10.2015 (Annexure P-8) passed by respondent No.2 vide which the petitioner has been called upon to deposit a sum of ₹2,15,980/-. He further prays for the issuance of a *mandamus* commanding the respondents to deliver possession of booth No.124 (C) which was allotted to the petitioner vide allotment letter dated 03.03.1993.

2. In an auction conducted on 17.02.1993, booth No.124(C) situated at Industrial Focal Point, Moga (Punjab) (hereinafter referred to as the booth in question) was allotted to the petitioner at a tentative price of ₹41,100/-. Allotment letter dated 03.03.1993 (Annexure P-1) was issued.

25% of the amount i.e., ₹10,275/- was paid at the time of the auction

whereas the balance 75% amount was to be paid in five equated half year the installments with compound interest @ 21% per annum or in lump sum without the payment of interest within a period of 60 days.

(i). As per the petitioner, the remaining installments were also paid regularly. However, on 22.05.1996, a telegram (Annexure P-2) was received in which the petitioner was called upon to appear before the Chief Engineer of the respondent/Corporation on 10.06.1996 for discussion with regard to clearing of dues against the booth in question. The petitioner appeared on the said date and time and after a detailed discussion, he was informed that the outstanding amount against the booth in question was ₹36,844/-. The said amount was paid by way of a demand draft dated 14.06.1996 (Annexure P-3).

(ii). Despite the deposit of the amount, the possession was not delivered. So much so, a show-cause notice dated 02.12.1996 (Annexure P-4) was issued calling upon the petitioner to deposit a further sum of ₹10,646/- which, according to the respondents, was outstanding.

3. As the petitioner had already deposited the full and final amount in June 1996, he did not deposit the sum of ₹10,646/- and instead wrote many letters to the respondents in this regard (Annexure P-5) but to no avail.

(i). A show-cause notice dated 20.11.2012 (Annexure P-6) was issued calling upon the petitioner to deposit a sum of ₹3,33,860/-.

(ii). It has been averred that the respondents did not take up the issue seriously and neither did they cancel the allotment of the booth in question nor settled the matter with the petitioner. The petitioner again wrote

a letter dated 21.06.2013 to the respondents' explaining the entire position but it also did not evoke any response.

(iii). The petitioner then preferred CWP No.9541 of 2015 titled as Gurdial Singh Dhaudharia Vs. State of Punjab and others which was disposed on 30.06.2015 directing the respondents to decide the representation to be submitted by the petitioner within a period of two months from the filing of the same.

(iv). The respondents, in purported compliance of the said order passed by a Co-ordinate Bench, passed an order dated 09.10.2015 (Annexure P-8) calling upon the petitioner to pay a sum of ₹2,15,980/- up to 30.10.2015. Aggrieved by the said order, the petitioner instituted the instant writ petition.

4. The writ petition has been opposed by the respondents by way of a written reply. Certain preliminary objections regarding maintainability, breach of the terms and conditions of allotment especially Clauses 2, 4, 6, 8 and 23 thereof, default in making payments etc. were raised. It was averred that after the deposit of amount of ₹36,844/- which too was deposited with a huge delay, the records of the respondent/Corporation showed that the petitioner still owed it ₹10,646/- as on 31.10.1996. Demand notices dated 02.12.1996, 21.01.1997, 12.03.1997, 29.09.1999, 17.01.2000 and 11.07.2000 (Annexure P-2) colly were issued.

(i). Since the account was not cleared, show-cause notices dated 19.12.2000, 19.02.2001, 12.03.2001 and 12.02.2002 (Annexure R-3) colly were issued. Vide notice dated 19.08.2002 unpaid amount of ₹32,158/- was claimed after affording a waiver of 50% of the penal interest.

(ii). Vide subsequent notices issued from time to time (Annexure R-4) colly, demands were raised and from 2007 to 2012 and dues amounting to ₹33,860/- were sought.

(iii). Reference has then been made to the writ petition filed by the petitioner and the directions issued therein subsequent to which the order under challenge was passed. On merits also a similar stand was taken.

5. Learned counsel for the parties were duly heard.

6. It was submitted by learned counsel for the petitioner that once the petitioner had cleared the entire dues of ₹36,844/- on 14.06.1996 as full and final payment, there was no occasion for the respondents to raise an additional demand of ₹10,646/- just about 04 months after the said payment. Learned counsel submitted that nothing prevented the respondents from raising this demand when the petitioner had gone to them and that under the circumstances, this demand was wholly unjustified.

(i). Learned counsel also submitted that on account of the adamant behavior of the respondents, the amount swelled to more than ₹3,00,000/- whereas the total price of the booth in question was ₹41,100/-.

(ii). Learned counsel submitted that neither did the respondents hand over the possession of the booth in question to the petitioner nor did they cancel the allotment which shows that nothing was actually outstanding. Learned counsel submitted that under the circumstances, the impugned order deserves to be set aside and a *mandamus* deserves to be issued to the respondents commanding them to hand over the possession of the booth in question to the petitioner.

7. Per contra, learned counsel for the respondents submitted that no interference is called for in the impugned order and that rank defaulters

like the petitioner deserve no concession. Learned counsel referred to the various documents on record and contended that after so many years having gone by, the petitioner is not entitled to any relief.

8. We have given our thoughtful consideration to the arguments addressed by learned counsel for the parties.

9. The allotment of the Booth in question, its sale price, the payment schedule, the petitioner having deposited 25% of the total sale consideration etc. are not in dispute. It is also not in dispute that neither has the possession of the Booth in question been delivered to the petitioner nor the Booth in question has been cancelled till today. It is quite strange that neither the petitioner has bothered to clear a small amount for the last about 25 years nor the respondents have bothered to cancel the allotment.

(i). Be that as it may, the fact remains that after a sum of ₹36,844/- had been deposited by the petitioner on 14.06.1996 which as per him was the full and final payment, a demand of ₹10,646/- was raised vide communication dated 02.12.1996. Instead of paying this amount, the petitioner started contesting the same. He was content with writing letters to the respondents and the respondents were content with not responding to them. The respondents started raising subsequent demands in 2012 and thereafter. The demand ultimately swelled to ₹3,33,860/-. This of course was in accordance with the terms and conditions of the letter of allotment as is evident from the notices on record. No doubt, the total sale consideration was ₹41,100/- and after having paid a substantial amount, still the petitioner was faced with the demand of more than ₹3,00,000/-. The fact, which however cannot be denied by the petitioner is that he remained a defaulter for he did not pay the sum of ₹10,646/- claimed by way of notice dated

02.12.1996. The respondents, therefore, cannot alone be blamed though even their action cannot be said to be justified in any manner. It is not understood as to what prevented the respondents from cancelling the site for the last 25 years. This, in any case, would not be of any assistance to the petitioner for he would be bound by his own actions and would have to succeed on his own merits. Admittedly, possession of the booth in question was not delivered. Considering the fact that only a sum of ₹10,646/-only remained to be paid, we, for once, were inclined to accept the version of the petitioner. However, the adamant stand of the petitioner in not depositing even the said amount right from 1996 does confer him with the title of a rank defaulter disentitling him to any relief.

In view of the peculiar facts and circumstances referred to above, we are not inclined to interfere. Accordingly, finding the petition to be bereft of merits, we dismiss the same.

(ARUN PALLI)  
JUDGE

(VIKRAM AGGARWAL)  
JUDGE

**Pronounced on:15.05.2024**  
Rekha

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |