

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.28695 of 2023
Reserved on :12.02.2024
Pronounced on: 05.04.2024

Satpal Singh

....Petitioner

V/s

State of Haryana and others

....Respondents

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

Present: Mr. Narender Kaajla, Advocate, for the petitioner.
Mr. Himmat Singh, Advocate, for the respondent-HSVP.

VIKRAM AGGARWAL, J.

1. By way of the instant writ petition, the petitioner assails the order dated 18.11.2021 (Annexure P-4), vide which a penalty of Rs.2,76,073.40 pc. was imposed upon the petitioner on account of non-payment of dues; the order dated 05.07.2022 (Annexure P-9) vide which the appeal filed against the said order was dismissed and the order dated 25.09.2023 (Annexure P-10) vide which the revision petition preferred by the petitioner against the order in appeal, was also dismissed.

2. The facts, as emanating from the petition, are that the petitioner purchased a plot measuring 162 sq. mtr. bearing No.1993, Sector 1-4, Urban Estate, Hisar (hereinafter to be referred to as “the disputed plot”) from one Lalit Kumar Saini and re-allotment letter dated 13.01.2011 (Annexure P-1) was issued to him. Apart from other terms and conditions, a schedule of payment of installments of the outstanding amount was laid down in the allotment letter. As per the said schedule, the entire outstanding amount of Rs.11,73,204/- was to be deposited in six annual installments and the

amount had to be paid on or before 22.09.2016. The outstanding amount included interest etc. However, the petitioner could not deposit the installments within time. As a result of the aforesaid, a show cause notice under Section 17(1) of the Haryana Urban Development Act, 1977 (for short “the HUDA Act”) was issued on 13.07.2016 (Annexure P-2) to the petitioner, calling upon him to show cause as to why a penalty of Rs.1,65,095/- be not imposed upon him on account of non-deposit of Rs.16,50,953/-.

2(ii) The petitioner appeared before the authorities and submitted application dated 22.07.2016 (Annexure P-3), seeking more time to clear the outstanding amount.

2(iii) It is the case of the petitioner that he is an agriculturist and he had not been able to clear the outstanding amount on account of poor yield of his crops.

2(iv) A notice dated 18.11.2021 issued under Section 17(2) of the HUDA Act was received by the petitioner, asking him to deposit Rs.27,60,734/- along with penalty amount of Rs.2,76,073.40 pc. (Annexure P-4). Despite all this, the petitioner was under the impression that his previous request had been accepted.

2(v) The petitioner again did not deposit the amount within the stipulated time. However, ultimately he deposited the entire outstanding amount of Rs.30,40,367/- on 25.11.2021 and as a result of the same the possession of the disputed plot was delivered to him vide possession certificate dated 13.12.2021 (Annexure P-7). Aggrieved by the imposition of penalty, the petitioner preferred an appeal (Annexure P-8), which was dismissed vide order dated 05.07.2022 (Annexure P-9). A revision petition

25.09.2023 (Annexure P-10), leading to the filing of the present writ petition.

3. We have heard learned counsel for the petitioner, as also learned counsel for the respondent-HUDA, who had put in appearance on advance copy having been served upon him.

4. Learned counsel for the petitioner submitted that the action of the respondent in imposing penalty of Rs.2,76,073.40 pc. is illegal and arbitrary and is also not sustainable as the petitioner was prevented from making the payment on account of circumstances beyond his control, which were duly conveyed to the respondents but the respondents failed to take note of the same.

4(ii) Learned counsel submitted that to show his *bona fides*, the petitioner had deposited the entire outstanding amount to save his property from being resumed but the amount of penalty deserves to be refunded.

5. *Per contra* learned counsel for the respondent-HUDA submitted that the penalty was rightly imposed in view of the terms and conditions of the re-allotment letter, as also in view of the settled position of law. Learned counsel submitted that the petitioner is a persistent and chronic defaulter and did not clear the outstanding amount for a long period.

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

6(ii) The disputed plot was re-allotted in favour of the petitioner vide letter of re-allotment dated 13.01.2011. The re-allotment letter laid down that the petitioner was supposed to pay the outstanding amount in six annual installments. The total outstanding amount was Rs.11,73,204/- and the same had to be cleared by 22.09.2016, i.e. the date for payment of the 6th

“1 The instalments shall include interest @12% per annum on balance price from the date of offer of possession. In case of default, additional interest as per prevalent policy shall be payable.

1a The payment of instalment(s) on due date is mandatory. In case the payment of instalment(s) is not made on the due date, interest shall be chargeable on the delayed payment of instalment(s) irrespective of the fact that whether the possession has been offered or not. Presently the interest on delayed payment of installments is 15% pa simple interest on delayed payment of enhanced compensation is 15% p.a. simple. In future, you shall pay the interest simple or compound, on the delayed payment of installments/enhanced compensation as decided by the Authority from time to time.

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xxx

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4. In case the instalment is not paid by the 10th of the month following the month in which it falls due the Estate Officer shall proceed to take action for imposition of penalty and resumption of plot in accordance with the provisions of Section 17 of the said Act.”

6(iii) As the petitioner did not pay the instalments in time, a show cause notice under Section 17(1) of the HUDA Act was issued, to the petitioner, calling upon him to show cause as to why a penalty of Rs.1,65,095/- be not imposed upon him on account of non-deposit of Rs.16,50,953/-. This amount was also not paid as a result of which another show cause notice was served upon him on 28.11.2016, which has not been annexed with the writ petition. Eventually, vide order dated 18.11.2021, a penalty of Rs.2,76,073.40 pc. was imposed upon him. This was strictly in accordance with the provisions of Section 17 of the HUDA Act and the terms and conditions of the re-allotment letter referred to above. The appeal preferred against the said order was dismissed vide order dated 05.07.2022

(P-9) and the revision was also dismissed vide order dated 25.09.2023 (P-10). The appellate authority, as also the revisional authority noticed the persistent default of the petitioner and upheld the imposition of penalty.

6(iv) Admittedly, from 2011 when the disputed plot was re-allotted in favour of the petitioner till 2021, i.e. 25.11.2021, the petitioner did not deposit the outstanding amount and it was only on 25.11.2021 that he deposited the entire outstanding amount. There is, therefore, absolutely no reason for this Court to interfere in the decision of the respondents to impose penalty upon the petitioner.

6(v) In the case of *Smitra Jain vs. Haryana Urban Development Authority and another*, 2020(13) SCC 465, a three Judges Bench of the Supreme Court of India held that a rank defaulter is not entitled to relief under Article 226/227 of the Constitution of India. In that case, a booth site had been resumed on account of non-payment and the same was upheld. Keeping in mind the said ratio, this Court does not find any reason to interfere in the impugned orders.

7. In view of the aforesaid, finding the petition to be totally bereft of merits, the same is dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

April 05, 2024
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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No