



CWP-3314-2025 (O&M)

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

CWP-3314-2025 (O&M)**Date of decision: 13.08.2025****Tamanna Babbar****...Petitioner****Versus****State of Haryana and others****...Respondents**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
 HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Amit Jhanji, Senior Advocate with
 Ms. Kudrit Kaur, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Ankur Mittal, Advocate
for the respondent-HSVP.

DEEPAK MANCHANDA, J.

1. Petitioner has filed this writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of the order dated 06.11.2024 (Annexure P-12), whereby the revision petition filed by the petitioner against the order dated 24.04.2024 (Annexure P-9) was dismissed. Further, the prayer has been made for issuance of a direction to the respondents to hand over the possession of the plot in question or of an alternative plot of similar size in the same sector or in the adjacent sector.

2. The facts emanating from the pleadings of the instant petition are that in pursuance of the e-auction of commercial properties situated in Gurugram held on 30.11.2022, the petitioner emerged as the highest bidder qua an institutional property, i.e. Nursing Home site located in Section 24-25-A, Urban



Estate Gurugram-II. Letter of intent dated 24.01.2023 (Annexure P-4) was issued, as per which, the price of the plot measuring 374.50 sq.mtrs was Rs.2,45,10,000/-. Regular Letter of allotment dated 21.04.2023 (Annexure P-5) was also issued to the petitioner, despite that the possession of the plot was not delivered to her. Further, vide communication dated 08.11.2023 (Annexure P-6), the request of the petitioner for possession was rejected on the ground that the planning of the site had been changed and the plot in question is situated on a *gair mumkin nalla*. Therefore, the petitioner filed a petition bearing CWP-27669-2023 for the issuance of directions to the respondent to issue a possession certificate and deliver physical possession of the plot in question, which was disposed of vide order dated 11.12.2023 (Annexure P-8) in terms of the statement made by the respondent. However, vide order dated 24.04.2024 (Annexure P-9), the petitioner's claim was rejected, and the bid amount was ordered to be refunded along with interest. Aggrieved against the same, the petitioner preferred a revision petition and the same was also dismissed vide order dated 06.11.2024 (Annexure P-12). Hence, this writ petition.

3. Learned Senior counsel for the petitioner submits that the respondent-HSVP instead of handing over the possession of plot for the fulfillment of its contractual obligations after receiving the consideration amount to the tune of 25% arbitrarily refunded the money by placing reliance on Clause 39 of the policy dated 20.07.2022, which is neither the part of LOI issued on 24.01.2023 nor Regular Letter of Allotment (RLA) issued on 21.04.2023. He further submits that the LOI and RLA are the governing terms and conditions of allotment, and there is no reference to Clause 39 of the policy in these documents. He further contended that RLA, which is the document governing the rights of the parties,



is issued under Regulation 6(2) of Haryana Urban Development (Disposal of Land and Buildings) Regulations, 1978, which is statutory in nature and contains conditions that are in variance with the e-auction policy. Further, Clause 39 of the policy dated 20.07.2022 can be invoked only if there is a situation of *force majeure*; however, in the instant case, the existence of *Nalla* at the auctioned plot as per the revenue record was not a situation beyond control, instead HSVP, being the owner of land, was well aware of the factum of the nature of land being *gair mumkin nalla* and therefore, cannot take the shelter of *force majeure* clause. He summed up his arguments by stating that Google images from the year 2010 onwards exhibit that there is no existing nalla on the site, and instead, there is levelled plain land with construction all around.

4. Learned counsel for the respondent-HSVP submits that the petitioner applied for possession on 03.11.2023, and the same was rejected on the ground that the sectoral plan had been changed. The said plan was under approval when the plot was put up for auction, and it was changed from institutional to residential. Further, the claim of the petitioner was rejected by the Chief Administrator vide order dated 24.04.2024, as the plot was put to auction on 30.11.2022 as per the previously approved plan, and no plan existed on the date of auction. He further submits that in this regard, a committee was also constituted to check the status of the site, and it has been found that Khasra No.809/2, over which the plot is situated, is *gair mumkin nalla* as per the revenue record. Thus, the possession of the said site cannot be delivered to the petitioner. Further, the amount deposited by the petitioner, i.e. 25% of the total consideration, has been ordered to be refunded in view of Clause 39 of the E-auction Policy dated 20.07.2022.



5. Heard.

6. The perusal of the pleadings would show that the respondent-HSVP rejected the bid and ordered for refund of the amount deposited by the petitioner on the ground that the planning of the site in question had been changed and that the plot in question is situated on a *Gair Mumkin Nalla* in khasra No.809/2, by invoking *force majeure* under Clause 39 of the policy under which the said plot in dispute was advertised.

7. It is the admitted case of the parties that the petitioner was declared as the successful bidder, and the same is not in dispute. The questions that arise before this Court are whether, after accepting 25% of the bid amount in terms of the policy as well as the allotment letter, the respondent-HSVP could have rejected the same and refunded the amount and whether the petitioner is entitled for alternative plot, as alleged by her. To resolve the controversy, this Court examined the terms and conditions of the e-auction policy dated 20.07.2022, in pursuance of which the site in dispute was advertised. The relevant terms and conditions of the same are reproduced hereunder:

“D. Allotment Letter

36. The allotment letter of the sites sold through e-auction will be issued after payment of 100% amount of the bid, but in case of independent commercial sites and Institutional sites where the bidder has an option to make payment of the 75% of the bid amount in 6 half yearly installment or 3 annual installments respectively in that cases the successful bidder will be issued the allotment letter on payment of 25% of the bid amount alongwith Bank Guarantee equivalent to 75% of the bid amount.

E. POSSESSION

37. After depositing the 100% amount of the bid and the issuance of the allotment letter, the successful bidder will have to apply for the delivery of physical possession of the plot/building.

However, in cases where the bidder has an option to make payment of 75% of the bid amount in instalments, after the



issuance of the allotment letter, the successful bidder will have to apply for physical possession of the plot/building. After the allottee takes physical possession of the plot/building, HSVP will not be responsible for any kind of encroachment or third-party litigation about the plot/building.

38. In case the possession of the property is not delivered by HSVP within 30 days after receipt of the application, HSVP will be liable to pay interest @ 5.5% p.a. (or as may be fixed by the Pradhikaran from time to time) on the amount due and deposited by the successful bidder/allottee till the date of delivery of possession. However, such interest shall be payable for the period calculated after expiry of 30 days as aforesaid and till the date of offer of possession.

39. If due to stay by the Court or litigation or any other circumstances beyond control, i.e. force majeure, HSVP is not able to deliver possession of the property within three months after deposit of the full (100%) bid amount, the full amount deposited by the successful bidder shall be refunded. The successful bidder will not have any claim on this property in question or any other property of the HSVP, including allotment of alternative site/plot."

Since the site in dispute is the Nursing Home site, the terms and conditions, qua the specific category as enumerated in the said policy, are also reproduced hereunder:

“J. OTHER TERMS & CONDITIONS:

45. The allotment of property shall be governed by the other terms and conditions subject as contained in the allotment letter appended to Haryana Urban Development Authority (Disposal of Lands and Building) Regulations, 1978 and the provisions of HSVP Act, 1977, the Rules/Regulations/Code/instructions/ guidelines as may be applicable there and as amended from time to time.

46. The property shall continue to belong to HSVP until the entire bid money, together with interest and other outstanding dues to HSVP on account of the sale of that property, are paid, and a deed of conveyance in favour of the successful bidder/allottee is executed. The successful bidder/allottee shall have no right to transfer the property or create any right/title/interest thereon without prior written permission of the concerned Estate Officer, HSVP, even after execution of the Deed of Conveyance. However, unless full price is paid and a conveyance deed is executed, the allottee may mortgage or create any right/interest on the property only to secure the loan amount against the property towards payment



of price, including dues, etc., of the property. Still, prior written permission of the Estate Officer concerned, HSVP shall be mandatory.

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49. The property shall not be used for any purpose other than that for which it has been allotted. No obnoxious activity shall be carried out on the property. However, as per Haryana Urban Development Authority (Disposal of Land and Buildings) Regulations, 1978 and policies issued thereunder (as amended from time to time), non-nuisance professional consultancy services are permitted in the residential plots.

Xxx xxx xxx xxx

51. The HSVP shall not be responsible for the levelling of uneven plot/land as the properties are auctioned on an 'As is where is basis.

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TERMS AND CONDITIONS FOR HOSPITAL SITE

The site shall not be used for any purpose other than the one for which the land is allotted. If they do not use the land for the specified purpose, it will revert to HSVP alongwith the structure, if any, upto 10% of the total permissible coverage on the allowed site can be used for ancillary & allied activities including essential residential component.

II. Preference shall be given to domiciles of Haryana in the recruitment of medical, para-medical and other class-IV staff while filling the various plots in the facilities, depending upon the availability of requisite skills.

III. The allottee shall complete construction of at least 25% of the projected built up area as indicated in the project report and start the facility of Hospital within two years from the date of offer of possession. The project shall be completed in all respects in 5 years.

IV. One representative each from Health Deptt., HSVP and Distt. Administration shall be taken in the Committee Board, managing the affairs functioning of the Hospital.

V. Shops shall not be allowed to be constructed except, those specifically provided in the Zoning Plan.

VI. The control over building shall be exercised through for Zoning Plan of the site which shall provided for the building Zone, maximum around coverage maximum height for parking area, type the use of plot.

Besides the Zoning Plan, the DIS Hospitals Norms/Guidelines regarding basic requirement for Hospital shall be applicable.

VII. The general hospital, health centre & dispensary shall provide 10% bed free and 20% OPD free to the Weaker Section of the Society.

In super specialty hospitals, subsidized rate @ 30% of the normal charges for 20% of functional beds shall be charged



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in addition to 20% OPD free for the weaker Section of the Society.”

8. Aggrieved against the non-allotment and for not giving the possession of the plot in question, the petitioner had earlier also approached this Court by filing a petition bearing CWP-27669-2023 titled as **‘Tamana Babbar Versus Haryana Shehari Vikas Paradhikaran and others’**, which was disposed of vide order dated 11.12.2023 with a direction to decide the representation preferred by the petitioner raising similar concerns and grievances. In compliance of the order as mentioned above, the respondent-HSVP had passed an order dated 24.04.2024 (Annexure P-9) by referring to a petition bearing CWP-PIL-48-2023 titled as **‘Varun Sheokand Versus State of Haryana and others’**, which was filed for setting aside the e-auction dated 28.05.2023 of GH-1 to 5, Sector 24-25A, Gurugram along with other sites wherein a natural drain/nalla, water body and a dense green cover is in existence. It is specifically mentioned in the impugned order dated 24.04.2024 (Annexure P-9) that vide order dated 19.07.2023 passed by this Court in aforesaid CWP-PIL-No.48-2023 while dealing with a similar issue, the District and Sessions Judge, Gurugram, along with Divisional Forest Officer, Gurugram and Chief Town Planner, HSVP, were directed to visit all other sites having similar disputes and after verification of the record, it has been found that part of pocket No.14, Sector 24-25A, Gurugram in khasra No.809/2, Hadbast No.67, Village Nathupur, Tehsil Wazirabad, Distt. Gurugram, where the plot in question was carved out, falls on the land of a natural drain/nalla. Therefore, the possession of the plot in question was denied to the petitioner and it was decided to refund the amount paid, along with interest, in accordance with the e-auction policy dated 20.07.2022. Further



vide said impugned order dated 24.04.2024 (Annexure P-9) directions were also issued that, in the future, before putting such sites on e-auction, it should be ensured that proper physical verification of the site is done by the Estate Officer, HSVP concerned.

9. Thereafter, aggrieved against the said order, a revision petition was preferred by the petitioner, which was also dismissed vide impugned order dated 06.11.2024 (Annexure P-12) and due to a typographical error, a revised and modified order dated 12.11.2024 (Annexure P-13) in continuation with the order dated 06.11.2024 was passed.

10. We have noticed that the petitioner has attempted to dispute the stand taken by the respondent-HSVP by relying on the site plans (Annexure P-4) retrieved from Google Maps, justifying that the respondent-HSVP's stand is incorrect, as the Google images exhibit that no nalla existed on the site from the year 2010 onwards. Instead, there is a levelled plain land with construction all around, whereas, the report and the actual ground situation are at variance, and no nalla exists on the site. It has also been pleaded that there was an earlier challenge related to khasra no.809/2 Village Nathupur, Tehsil Wazirabad, Distt Gurugram by the erstwhile landowner, wherein a specific stand was taken by the respondent-authority that the development on the land in question is complete, thus, if there existed a nalla over the site, the completion of development works would not have been possible. Hence, the stand taken by the respondent-HSVP is incorrect, misleading and is contrary to the stand taken in the impugned orders with a plea of existence of nalla.

11. In contrast, learned counsel for the respondent-HSVP, while relying upon the impugned orders, has justified the stand taken by it for refunding the



amount by stating that the action is in pursuance of the policy dated 20.07.2022, and the petitioner had agreed to the terms and conditions of the policy as well as the advertisement. It has also been argued by the learned counsel for the HSVP that before participating in the e-auction, the petitioner was very much aware about the terms of the policy dated 20.07.2022 wherein it has been explicitly mentioned in Clause No.39 that if respondent-HSVP is not able to deliver possession of the property within three months after deposit of full (100%) bid amount, the full amount deposited by the successful bidder shall be refunded back and the successful bidder will not have any claim on the property in question or any other property of the HSVP including allotment of alternative site/plot.

12. Learned counsel for the respondent-HSVP has admitted that since the identification of the site in dispute was in pursuance to the directions issued by this Court in CWP-PIL-48-2023, therefore, the action of the respondent-HSVP in canceling the site as well as refunding the amount after knowing the fact that the same had been wrongly put to auction being on natural drain/nalla is justified and legal.

13. We are in agreement with the submissions made by learned counsel for the respondent-HSVP that once the terms and conditions of the e-auction policy have been accepted by the petitioner, then she cannot have a right or claim over the property. There is no equity in her favour. The claim of the petitioner raised through this writ petition and prayer made therein cannot be accepted, and the same deserves to be rejected.

14. Moreover, during the arguments, a specific question was put to learned counsel for the petitioner that since the petitioner has applied for the institutional



site for nursing home, whether she belongs to medical profession or is having any other experience in the medical field, neither the same has been answered nor there is any material on record to show. Even as per the terms and conditions mentioned for a hospital site in the e-auction policy, it has been specifically noted that the site shall not be used for the purpose other than the one for which the land is allotted. Upon reviewing the said terms and conditions for the hospital site, it becomes apparent that the nursing home site has been designed specifically for medical facilities and hence it is expected that a person with experience in the medical field should be given preference for the allotment of the same.

15. Further, as per clause 38 of the terms and conditions of the e-auction policy, in case the possession of the property is not delivered by respondent-HSVP within 30 days after receipt of the application, HSVP will be liable to pay interest @ 5.5% p.a. (or as may be fixed by the Pradhikaran from time to time) on the amount due and deposited by the successful bidder/allottee till the date of delivery of possession. It has been apprised that the amount deposited by the petitioner being the successful bidder has already been ordered to be refunded and as the site in question was cancelled by the respondent-HSVP due to being unviable, following the revelation of the facts after the auction and advertisement. The petitioner is entitled to the refund of the amount along with interest at the rate of 5.5% p.a., as per the terms and conditions of the applicable policy, but as per the impugned order dated 06.11.2024 (Annexure P-12) an amount of Rs.61,27,500/- was refunded to the petitioner through RTGS on 03.05.2024, but the concerned Bank informed that they were unable to transfer the amount as the account of the credit party is freezed and petitioner was asked



to provide the correct Bank Account details so that the refund can be made. It is further mentioned that in compliance of order dated 24.04.2024, a demand draft No.879640 dated 14.05.2024 an amount of Rs.64,78,362/- (along with interest) had been sent to the petitioner on her address through registered post which was returned by the petitioner.

16. On the other hand, to do substantial justice with an object to prevent abuse of process and ensure that justice is not only done but seen to be done, we cannot lose sight of the fact that the site has been cancelled for the reason that there is an existing nalla on the land in question, and said fact was not verified by the respondent-HSVP at the time of issuing the advertisement. It has also been fairly endorsed by the Chief Administrator, HSVP, in the impugned order dated 24.11.2024 (Annexure P-9), wherein a specific direction has also been issued that e-auction Cell of the HSVP (HQ) will make sure that in future, before putting the site to e-auction, a proper physical verification of the site is done by the concerned Estate Officer, HSVP.

17. Even as per short affidavit dated 19.02.2025 available on record, wherein the fault of the respondent-HSVP has been admitted, and the Chief Vigilance Officer, HSVP, was directed to hold a fact-finding inquiry and submit a report to the Estate Officer, Gurugram, for not verifying the status of land before putting the same in e-auction on 30.11.2022. After that, directions were issued to the Chief Vigilance Officer, HSVP, to submit the inquiry report within 15 days so that appropriate action as per law could be taken against the defaulting officials responsible for this lapse.

18. The perusal of the present case file would show that though the said inquiry was initiated in pursuance of order dated 05.02.2025 passed by this Court



but nothing has been placed on record in reference to the completion of the said inquiry or the action taken against the officials responsible for advertising the site without verifying the factual position. Once, there is an admission on the part of the respondent-HSVP and even during the course of the arguments, upon asking of this Court that whether earlier any similar situation arose with the respondent-HSVP, learned counsel for the respondent-HSVP fairly apprised this Court by referring to a matter decided by the National Green Tribunal (NGT), wherein, under similar circumstances, a penalty of Rs.50 lakhs was imposed upon HSVP for carving out the plot in Sector-50 Gurugram. Under such circumstances, as explained above, this court is duty bound to correct wrongs, prevent abuse of power and ensure that legal and executive actions are lawful and such admitted continued lapses have compelled us to take the view that despite repeated mistakes, the respondent-HSVP has failed to perform its duties as a welfare department, and people are suffering due to its lapses and conduct, which amounts to dereliction of duty by the respondent department.

19. We are, therefore, constrained to impose costs of Rs.1,00,000 /- upon the respondent-HSVP, so that such mistakes are not repeated in the future as a punitive measure to avoid a miscarriage of justice and the respondent-HSVP is directed to comply with the directions issued by respondent No.2 i.e. the Chief Administrator in Letter and spirit as mentioned in the impugned order dated 24.11.2024 (Annexure P-9).

20. Given the above discussion, since the petitioner had agreed to the terms and conditions of the e-auction policy, which has not been challenged so no equity can be created in her favour, as the same were duly accepted by her. Thus, the claim of the petitioner as prayed for in the petition including an



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alternative plot cannot be accepted as the same is violative of the terms and conditions of the policy. Consequently, this petition is dismissed qua the petitioner and respondent-HSVP is directed to refund the amount as decided vide impugned order dated 24.04.2024 (Annexure P-9) to the petitioner within a period of two months after due calculation from the date of receipt of a certified copy of this order. The costs imposed on the respondent-HSVP is ordered to be deposited with the Institute for Blind, Sector 26, Chandigarh, within two months.

21. Pending miscellaneous applications, if any, also stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

13.08.2025
vanita/sandeep

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No