
(2005) 04 P&H CK 0030
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2389 of 1985

G.K. Auto Engineers

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-04-2005

Acts Referred:

Citation : (2005) 141 PLR 62 : (2005) 2 RCR(Civil) 793

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : R.L. Batta and I.S. Rangpuri, for the Appellant; Anmol Rattan Sidhu, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

S.N. Aggarwal, J.—Plot No. C-22, Focal Point, Dhandari Kalan, Ludhiana was allotted to the petitioner vide allotment letter dated 6.2.1969 (Annexure P-1) for a sum of Rs. 56,144/- . 10% of the sale price was to be deposited within 30 days and the balance amount was to be deposited with interest @ 4% per annum in six annual equated instalments. The first instalment was payable two years after the date of taking possession of land provided that the interest was to accrue from the date of allotment order. The remaining five instalments were payable at the end of successive period of 12 calendar months each from the date of payment of first instalment. In case of failure to pay the instalments as stipulated above, the penal interest @ 9% per annum was also chargeable (condition No. (vi) of Annexure P-1).

2. The petitioner deposited the initial amount of 10% of the total sale price. The 2nd, 3rd and part of 4th instalments were paid by the petitioner but with delay. Part of 4th instalment, 5th instalment and 6th instalment were not deposited and the said plot was accordingly resumed by the respondents vide order dated 17.12.1979 (Annexure P-2). In between, a sum of Rs. 30,000/- was sent by the petitioner to the department by bank draft but it was returned by the respondents to the petitioner. The appeal filed against the order of resumption

did not meet success and final order of dismissal of appeal was passed by the authorities on 19.12.1984 (Annexure P-7).

3. Hence, the present writ petition.

4. The submission of learned counsel for the petitioner was that similar matters had come up earlier also before this Court, as also before the Hon''ble Supreme Court. Reference was made to the unreported judgment of the Hon''ble Supreme Court in Rana Metal Industrial v. State of Punjab and Ors., SLP (C) No. 6657 of 1985 dated 17.3.1994. It was submitted that this judgment related to plot No. K-6, Industrial Focal Point, Ludhiana, while the plot in dispute was also situated in the same locality at a small distance. In the said judgment, the Hon''ble Supreme Court had set aside the order of resumption of the plot with a direction that the outstanding amount shall be paid by the allottee with interest @ 13% per annum from the date it had become due till the date it was paid within a stipulated period. It was also made a condition that if the allottee failed to deposit the said amount within the stipulated period then the resumption of the plot shall reappear and 10% of the total price of the plot already deposited by allottee shall stand forfeited. The same view was taken by the Hon''ble Supreme Court in the judgment reported as Jasbir Kaur Vs. Union Territory, Chandigarh and Others, .

5. Shri Anmol Rattan Sidhu, learned Deputy Advocate General, Punjab, has submitted that the petitioner has committed default in payment of instalments as stipulated in the allotment letter. However, as per the law laid down by Hon''ble Supreme Court, the respondent-department is entitled to interest @13% per annum (interest @ 4% + penal interest @ 9%) from the date when the instalment had fallen due, till the date of payment.

6. The 2nd, 3rd and part of 4th instalments were not deposited in time, while part of 4th, 5th and 6th instalments were not deposited at all (Annexure P-2).

7. Therefore, in view of the facts of this case and the law laid down by Hon''ble Supreme Court, the resumption of the plot is set aside subject to the condition that the petitioner would make the payment of unpaid instalments with interest @ 13% per annum (interest + penal interest) from the date when each instalment had fallen due till 30.4.2005. All these amounts be deposited on or before 30.4.2005.

8. The petitioner will go to the department alongwith an application seeking calculations of the amount payable by him as ordered above and the department will respond within 2-3 days after the petitioner approaches it, to enable the petitioner to deposit the amount within the stipulated period.

9. If the petitioner fails to deposit the amount, the resumption order shall come into force and the amount of 10% already deposited by the petitioner shall stand forfeited, as per the law laid down by Hon''ble Supreme Court.

10. This civil writ petition stands disposed of in above terms.

11. A copy of the order be given dasti, on payment of usual charges.