

(2017) 10 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : 5553-2017 (O&M)

Iqbal Singh through his legal representatives	APPELLANT
Vs	
State of Punjab and others	RESPONDENT

Date of Decision : 12-10-2017

Acts Referred:

Citation : (2017) 10 P&H CK 0008

Hon'ble Judges : S.J. Vazifdar, Harinder Singh Sidhu

Bench : DIVISION BENCH

Advocate : Hitesh Verma, Daldeep Singh Sukarchakia, Balwinder Singh

Final Decision : Disposed

Judgement

1. The present petitioners are the heirs of the original petitioner who unfortunately died during the pendency of this writ petition.

The petitioners seek a writ of certiorari to quash an order dated 05.07.2016 passed by the revisional authority i.e. respondent No. 2 - Special

Secretary, Department of Housing & Urban Development, Government of Punjab and an order directing the respondents to afford them further

time to pay the amount due in respect of an allotment of a plot of land. The petitioners have also sought an order setting aside the order of

resumption which followed on account of the petitioners not having deposited the amount as directed in the impugned order dated 05.07.2016.

2. The original petitioner succeeded at an auction for the allotment of a residential plot admeasuring 500 sq. yards at a tentative price of Rs. 77

lacs. The allotment letter was accordingly issued on 13.06.2008 in favour of the original petitioner. The original petitioner paid a sum of about Rs.

20 lacs which constituted 25 percent of the consideration within the stipulated

period and a further sum of Rs. 22 lacs on 17.12.2009.

3. The subsequent installments were not paid by the original petitioner. He had contended that this was due to certain financial difficulties faced by

him, inter alia, on account of a theft at his residence and damage to the crops. An FIR was lodged by him on 02.03.2010 in respect of the theft.

4. On 16.11.2012, respondent No. 4 cancelled the allotment on account of the original petitioner not having paid the installments. The original

petitioner claimed that he was not aware of the proceedings leading to the resumption as the notices were not received by him. It is fairly admitted

that this was possibly on account of the original petitioner himself not having given the respondents the new address where he was residing. When

the allotment was made in the year 2008, the original petitioner together with members of his family resided in the village where his agricultural

lands were situated and later after the allotment of the plot and the construction of a house thereon, the family shifted to the present address. The

original petitioner filed an appeal on 23.10.2015 which was dismissed by an order dated 04.02.2016.

5. The petitioner thereafter filed a revision petition which was disposed of by an order dated 05.07.2016 passed by respondent No. 2. It is not

necessary for us to examine in any further detail the cause for the original petitioner not having paid the installments on the dates stipulated in the

letter of allotment as the revisional authority by this order granted the original petitioner four months to deposit the amount. The petitioners contend

that the order itself was dispatched only on 18.11.2016. That being so, in fairness, the petitioners would be entitled to a further period of four

months to pay the amount. The petitioners instead of offering the same to the respondents filed this petition on 16.03.2017 and the notice of motion

was issued on 17.03.2017. Pursuant to interim orders in this writ petition, the petitioners have paid a further amount of Rs. 10 lacs.

6. Unfortunately, the original petitioner expired on 31.03.2017.

7. In these circumstances, we are inclined to grant the petitioners some indulgence enabling them to comply with the impugned order dated

05.07.2016. The learned counsel appearing on behalf of respondents No. 3 and 4 i.e. Additional Chief Administrator, Bathinda Development

Authority, Bathinda and Estate Officer, Bathinda Development Authority, Bathinda

respectively stated that as on 01.11.2017, an amount of Rs.

96,76,996/- will become due and payable. The petitioners seek one year to pay the said amount. Normally, we would not have granted the

petitioners this indulgence. The petitioners, however, stated that they intend selling some of their lands and raising the money to make this payment

to protect their residential premises. They further have agreed to pay interest during this period at 18% per annum. It is in view of all these facts

and circumstances that we are inclined to grant the petitioners this indulgence. The petitioners also seek a moratorium till 01.02.2018. For this

moratorium, the petitioners have agreed to pay an amount of Rs. 5 lacs by 01.12.2017.

8. In these circumstances, the writ petition is disposed of by the following order:-

(i) The petitioners agree and undertake to pay a sum of Rs. 5 lacs on or before 01.12.2017, a sum of Rs. 25 lacs on or before

01.02.2018, a sum of Rs. 25 lacs on or before 01.05.2018, a sum of Rs. 25 lacs on or before 01.08.2018 and a sum of Rs. 25 lacs

on or before 01.11.2018. Further, interest on the reducing balance shall also be computed and paid alongwith the last installment on

01.11.2018. The respondents shall on or before 15.10.2017 inform the petitioners in writing the amount of interest payable on

01.11.2018.

(ii) The petitioners shall within two weeks from today deposit with respondent No. 4 cheques for the aforesaid amounts, namely, a

cheque dated 01.12.2017 for a sum of Rs. 5 lacs, a cheque dated 01.02.2018 for a sum of Rs. 25 lacs, a cheque dated 01.05.2018

for a sum of Rs. 25 lacs, a cheque dated 01.08.2018 for a sum of Rs. 25 lacs and a cheque dated 01.11.2018 for a sum of Rs. 25

lacs. A separate cheque for the interest shall be handed over by the petitioners within seven days of the respondents informing the

petitioners the amount due in writing.

The undertaking to make the aforesaid payments and that the cheques would be honoured is accepted and it is so ordered.

(iii) In the event of there being any two defaults, this order shall stand vacated and the impugned order dated 05.07.2016 shall stand.

The petitioners agree and undertake in that event to hand over to the

respondents quiet, vacant and peaceful possession of the property together with the structures thereon. The undertaking is accepted and it is so ordered.

(iv) Till the entire amount is paid as aforesaid, the petitioners shall not dispose of, alienate, encumber, part with possession of and/or

create any third party right, title or interest in respect of the said plot or the structures standing thereon without the leave of the Court.

The application for the same, if any, may be made in this writ petition.