
(2001) 01 P&H CK 0162
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1320 of 2001

Jagdish

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-01-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 RCR(Civil) 298

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : S.D. Bansal, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The petitioners in these two cases have applied for the allotment of shop in Jind. Their applications were accepted. The shops were allotted. However, the petitioners having failed to deposit the instalments the sites were resumed. The appeals and revision petitions filed by the two petitioners having been dismissed, they have approached this Court through these two petitions. Counsel for the petitioners has referred to the factual position in CWP No. 1320 of 2001. A brief reference thereto is appropriate.

2. On September 29, 1992 the petitioner submitted an application for the allotment of a shop in Jind. The lots were drawn on October 13, 1992. The petitioner was one of the successful contenders. The shop was allotted to him for a value of Rs. 2,20,500/-. On October 13, 1992 the petitioner deposited 25% of the price viz. Rs. 50,125/-. The remaining amount had to be paid in six half-yearly instalments alongwith interest at the rate of 12.5%. The first instalments had to be paid on or before May 1, 1994. The last instalment had to be deposited by November 1, 1996. The petitioner deposited the first instalments of Rs. 37,898.50 on May 9, 1994, thereafter, he did not deposit any money.

3. The petitioner was given notice by registered A.D. post by the Market

Committee. He did not respond. No deposit was made. No reply was filed. On October 16, 1998 a notice was published in a local daily calling upon the petitioner to deposit the entire amount along with interest within 15 days. He was warned that in the event of failure the plot would be resumed and that the amount already deposited shall stand forfeited. The petitioner still did not respond. Ultimately, on November 5, 1998 the Market Committee passed an order of resumption. The petitioner was informed of the order vide letter dated November 9, 1998. Aggrieved by the order, the petitioner filed an appeal which was dismissed by the Chief Administrator of the Haryana State Agricultural Marketing Board vide his order dated May 18, 1999. The petitioner then filed a revision petition before the State Government. After a detailed consideration of the matter by the competent authority the revision petition was dismissed vide order dated June 8, 2000. Hence this petition. The petitioner prays that the orders of resumption and the subsequent orders passed by the two authorities, copies of which have been produced as Annexures P7, P9 and P11 be quashed.

4. We have heard Mr. S.D. Bansal, learned counsel for the petitioners. He has only prayed that the authorities may be directed to accept the amount now. No infirmity has been pointed out in any of the orders.

5. On a perusal of the matter we find that the petitioners had been afforded a due and reasonable opportunity to make the deposit. They had chosen to remain quiet. Since the market value has now risen manifold, they are making the offer for payment. Such an offer had to be made at the appropriate stage and before the competent authority. We cannot entertain such a prayer at this stage.

6. No infirmity in the action of the respondents having been pointed out by the counsel, we find no ground to interfere.

7. At this stage counsel has submitted that the Market Committee had failed to comply with the requirements of para 15 of the letter of allotment inasmuch as notice of recovery by way of arrears of land revenue was not served. Thus, the impugned action is vitiated. We are unable to accept this contention. A perusal of the order passed by the Commissioner & Secretary to Government, Haryana, indicates that two notices dated December 27, 1996 and September 25, 1998 had been issued to the petitioners. By these notices the petitioners were duly informed of the factual position. They were warned that in case the deposit is not made the Committee shall have to perform "the unpleasant job of resumption of plot along with the building...". They were given an opportunity to make the payment. The petitioners had not responded. Thereafter a notice was published in the Press on October 16, 1998. A copy of the notice has not been produced on the record. There is no evidence regarding the contents. It is clear that full opportunity to pay was afforded to the petitioners. Still further, the plea that Clause 15 had not been complied with is not shown to have been raised before the Government. Even otherwise, Clause 20 of the letter of allotment clearly authorises the authority to resume the site along with the building etc. in case of default in payment. The petitioners have, admittedly, not paid the money despite

notices. Thus, the action is in consonance with terms of allotment.

8. Mr. Bansal has then contended that the notice dated September 25, 1998 was not served on the petitioners. He further submits that even the newspaper in which the notice was allegedly published is not circulated in the area. Thus, the impugned action is vitiated. We cannot accept this contention. Firstly, the Commissioner and Secretary to Government, Haryana, has on examination of the record found as a fact that the registered notices sent to the petitioner had not been received back in the office of the Market Committee. From this an inference could legitimately be drawn that the notices were duly served. The petitioners have produced nothing on the record to show that it was not so. Still more no contention appears to have been raised before the authority that the paper in which the notice was published was not circulated in the city of Jind. The daily is apparently published in Jind. We cannot assume that it is not circulated in the city. Still further, the petitioners knew that they had to pay. The dates were known. They had failed to act in conformity with the terms of allotment. Now they are pretending to be innocent.

9. No other point has been raised.

10. In view of the above, we find no merit in these petitions. There are consequently, dismissed in limine.