
(2012) 05 P&H CK 0042

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 732 of 2012 (O and M)

Joginder Singh and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-05-2012

Acts Referred:

Punjab Package Deal Properties (disposal) Act, 1976 — Section 10, 11

Citation : (2013) 169 PLR 654

Hon'ble Judges : T.P.S. Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Advocate : J.R. Mittal, with Mr. M.L. Saini, for the Appellant; Rakesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal has been directed against the order dated January 11, 2012 passed by the learned Single Judge, whereby the writ petition (CWP No. 4196 of 1984) filed by the father of the appellants challenging the auction of the land in dispute under the Punjab Package Deal Properties (Disposal) Act, 1976 (hereinafter referred to as "the Package Deal Properties Act") and the Rules made thereunder, in favour of one Joginder Pal, predecessor of respondents No. 7 to 12, has been dismissed. In this case, the property in dispute, which was part of the Package Deal Properties, has been disposed of by the authorities under the Package Deal Properties Act, by restricted public auction on 17.10.1975. Against the reserved price of Rs. 1,620/- the property was sold in auction in favour of Joginder Pal for Rs. 17,800/-. No objection to the said public auction was filed within the period of one month. Therefore, under the Punjab Package Deal Properties (Disposal) Rules, 1976 (hereinafter referred to as "the Rules"), the said sale was confirmed by the competent authority, i.e., Additional Settlement Officer (Sales), on 5.12.1975. Against the order of confirmation, a review application u/s 11 of the Package Deal Properties Act was filed by the appellants before the Assistant Settlement

Commissioner alleging therein that the order of confirmation suffers from clerical and accidental slip as there was a house of the appellants in the land put to auction, which should not have been included in the land put to sale. The said review application was dismissed by the Sales Commissioner on 30.7.1976.

2. Against the said order, the appellants filed a revision before the Chief Sales Commissioner u/s 10 of the Package Deal Properties Act. In the revision, it was contended that the appellants had constructed a house comprising five rooms on two kanals of land, which was a part of the land sold to Joginder Pal, therefore, to that extent, the auction/sale in favour of Joginder Pal was illegal. The Chief Sales Commissioner rejected the said contention while holding that the appellants did not make any application for transfer of the area on the basis of possession as required under the Rules, therefore, they could not be provided any relief in the matter. The second contention of the appellants that as per the Sales Programme, the auction was to take place on 15/16.10.1975, but it was held on 17.10.1975, therefore, on this score alone, the sale could not be sustained, was also rejected by the Chief Sales Commissioner on the ground that the Tehsildar (Sales) under Rule 6(viii) of the Rules has been empowered to adjourn the sale to a specific date and hour by recording the reasons, Proviso to Clause (viii) of Rule 6 provides that where the sale is adjourned for a period exceeding fifteen days, a fresh notice shall be given. It was held by the Chief Sales Commissioner that since in the present case the Tehsildar (Sales) had adjourned the sale for one day after recording the reasons, therefore, there was no illegality in the sale and no fresh notice for the same was required. While, coming to the said conclusion, the Chief Sales Commissioner dismissed the said revision petition vide order dated 6.6.1978.

3. The abovesaid order was challenged in further revision before the Commissioner and the same was also dismissed vide order dated 6.8.1984.

4. Feeling aggrieved against the aforesaid orders passed by the authorities, the appellants challenged the same by filing writ petition, which has been dismissed by the learned Single Judge. Hence, this appeal.

5. We have heard learned counsel for the parties and gone through the impugned order as well as the orders passed by the authorities. The argument of the learned counsel for the appellants with regard to illegality in the conduct of auction, has been properly considered and dealt with by the learned Single Judge. It has been observed that against the reserved price of Rs. 1,620/-, the property was put to auction for an amount of Rs. 17,800/- as the restricted auction was hotly contested. Even the son of the petitioner had participated in the auction, therefore, it could not be said that the sale fetched the low price. The contention of the appellants that the sale should not be confirmed, was rejected by the learned Single Judge.

6. Another argument raised by the learned counsel for the appellants that the property could not have been treated as a surplus rural evacuee agricultural land

because it was Shamlat deh and vests in the Gram Panchayat, also cannot be accepted. Undisputedly, in this case the Panchayat never staked any claim to the property. Even the appellants did not make any attempt to implead the Panchayat as a party in the proceedings.

7. As regards the claim of the appellants for allotment of this land on the basis of the Press Notes issued in the years 1979-80, it was held that the appellants did not apply to purchase the said property at any point of time. They always tried to get the sale set aside on the ground that there was illegality in the conduct of the auction/sale. The learned Single Judge has elaborately dealt with all the contentions raised by the learned counsel for the appellants and during the course of hearing, learned senior counsel for the appellants could not point out any illegality or perversity in the impugned order passed by the learned Single Judge.

No merit. Dismissed.