
(1982) 10 P&H CK 0016
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1244 of 1975

Kapura

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-10-1982

Acts Referred:

Citation : (1983) ILR (P&H) 165 : (1983) PLJ 101 : (1986) RRR 461

Hon'ble Judges : A.S.Bains, J

Advocate : S.S. Rathor, Advocate., Advocates for appearing Parties

Judgement

A.S. Bains, J.—The land in dispute was put to auction by respondent No. 3, SubDivisional Officer (C), Nuh, on July 30, 1973. The petitioner was the highest bidder and paid Rs. 6,850/ as 25 per cent of the purchase money of Rs. 27,400/ at the spot and the same was got deposited on July 31, 1973 in the Treasury. The petitioner was directed to deposit the remaining 75 per cent of the purchase money within 15 days on the receipt of the approval of the auction by him from respondent No. 2 the Collector. Respondent No. 3 the S.D.O. (C) vide his letter dated August 30, 1973 informed respondent No. 2 of the approval of the auction of the said land in favour of the petitioner. Respondent No. 3 received letter dated August 10, 1973, from respondent No. 2 for intimating the petitioner to deposit Rs. 20,550/ being 75 per cent of the purchase money in the Treasury before August 14, 1973. The S.D.O. (C) respondent No. 3 informed the petitioner through respondent No. 4 to deposit Rs. 20,550/ in the Treasury before August 14, 1973 on the evening of August 13, 1973 and further intimated the petitioner that his bid has been confirmed by respondent No. 2. It is alleged that the petitioner attended the office of respondent No. 3 on August 14, 1973 and informed him that Rs. 20,550/ will be deposited within 15 days according to the condition No. 7 of the Auction Notice. The petitioner deposited Rs. 20,550/ in the Treasury on August 27, 1973. It is further alleged that the S.D.O. (C) ordered the reauction of the land in dispute vide notice dated February 22, 1975. It is in these circumstances that the present petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioner against the reauction notice

of the land in dispute.

2. The sole question for determination is whether the reauction notice issued by the S.D.O. (C) is valid and proper in the circumstances of the case and whether the highest bidder was to deposit 75 per cent of the purchase money in the treasury within 15 days after the receipt of the notice and the approval of the authority or from the date of the auction.

3. The contention of the petitioner is that the money was to be deposited within 15 days from the date of the approval of the auction and that the petitioner deposited the money on August 27, 1973, as informed by respondent No. 3, the S.D.O. (C), on 13th August, 1973, through a voucher prepared by the officials of respondent No. 3. Deposit of the money has been admitted by the respondents. The stand taken by State is that the money was to be deposited within 15 days of the date of the auction. Condition No. 7 of the Auction is in the following terms :

``That the last bidder would deposit in the treasury 75 per cent of the sale price within 15 days of the receipt of the notice of approval of the last bid. In case of default his earnest money would be forfeited and the property would be reaucted. In that case if the sale price is less than the previous one, the difference would be realised in addition to the forfeiture of the earnest money from the last bidder.``"

From the reading of condition No. 7 it is plain that the highest bidder was to deposit 75 per cent of the purchase money in the treasury within 15 days after the receipt of the notice of the approval of his bid and not within 15 days from the date of the auction. Thus, the argument of the counsel for the State is misconceived. He also relied on section 88 of the Punjab Land Revenue Act, 1887, which is the following terms :

"88. Time for payment in fullThe full amount of the purchase money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchase was declared."

From the reading of this provision also it is plain that full amount of the purchase money shall be paid by the purchaser before the close of the 15th day from the date on which the purchaser was declared. From this it is also apparent that the money can only be deposited when the intimation for the approval of the approving authority was given to the purchaser. Moreover, the auction took place under conditions which were supplied by the authorities at the time of the sale and condition No. 7 is very clear. The petitioner has also mentioned in his petition that the persons in similar circumstances were allowed to deposit the money after the approval was given to their sales. In para 18(iv) of the petition the petitioner has mentioned the names of Udepal son of Ram Nath and Fauzu, ExSarpanch of village Dhenkli Tehsil Nuh, who purchased in auction the land measuring 10.25 Acres each for Rs. 20,500/ and Rs. 17,000/ respectively, from the State Government and deposited 75 per cent of the purchase money within

fifteen days after the receipt of the notice of the approval of the auction in their favour. The reply given by the respondents is evasive. The fact of the deposit of 75 per cent of the purchase money after the approval of the auction in the treasury is not denied. Thus, I am of the considered view that injustice has been done to the petitioner by again putting the land to auction and by not issuing the sale certificate in his favour.

4. In the result, this petition is allowed and the notice of reauction Annexure P. 1, dated 22nd February, 1975, is quashed and it is directed that the authority will grant the sale certificate to the petitioner in accordance with law. However, there will be no order as to costs.