(2013) 08 P&H CK 0505

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 23292 of 2011

M/s. Dayal Chand APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Citation : (2013) 4 PLR 807

Hon'ble Judges : Satish Kumar Mittal, J;Mahavir S. Chauhan, J

Bench : Division Bench

Advocate : J.K. Goel, for the Appellant; Indresh Goel, Addl. A.G., Haryana for Respondent No. 1 and Mr. Ramesh Hooda, Advocate for Respondents No. 2 and 3, for the Respondent

Judgement

Satish Kumar Mittal, J.—The petitioner firm has filed the instant writ petition for quashing the order dated 14.6.2010 (Annexure P-7), passed by the Chief Administrator, Haryana State Agricultural and Marketing Board, Panchkula (respondent No. 2 herein) to the extent of fixing the reserve price at Rs. 13,82,371/- for the plot allotted to the petitioner firm, with a further direction to the respondents to allot the plot to the petitioner firm as per the direction issued by this court vide order dated 5.12.2008 (Annexure P-1) passed in CWP No. 3403 of 1993 on the reserve price fixed in the year 1993. The petitioner firm is an old licensee of category-II of grain market, Indri. Vide notification dated 9.9.1987, a new grain market at Indri was established and the old mandi, where the petitioner firm was working, was de-notified. When the old licensees working in the old mandi were not re-habilitated in the new mandi by providing plots and the Haryana State Agricultural and Marketing Board, Panchkula (hereinafter referred to as ''the respondent Board'') decided to auction most of the plots by open auction, they challenged the action of the respondent Board by filing CWP No. 596 of 1991 in this Court, which was dismissed vide order dated 11.7.1991. Ultimately, on 2.2.1993, the Hon''ble Supreme Court set aside the order of this Court and directed the Market Committee, Indri (respondent No. 3 herein) to allot plots to the old licensees at the reserve price, instead of auctioning the same by public auction. Most of the old licensees were allotted the plots, but the petitioner firm was not allotted a plot on the ground that against dismissal of its writ petition, it did not file SLP in the Hon''ble Supreme Court. When the petitioner firm was denied the plot, it filed CWP No. 7915 of 1993, which along with other writ petitions filed by the similarly situated persons was allowed by this Court vide order dated 5.12.2008 (Annexure P-1), while directing the respondents to consider the claim of the petitioner firm for allotment of a plot being old licensee and allot it a plot on the reserve price. On the basis of the said direction, claim of the petitioner firm, along with other persons, was considered and ultimately, respondent No. 2 found the petitioner firm as eligible for allotment of the plot under the category-II of old mandi. In pursuance of the said order, allotment letter dated 17.5.2010 (Annexure P-5) was issued to the petitioner firm allotting it plot No. 46-A in the new mandi on the reserve price of Rs. 43,43,500/- as fixed by the respondent Board. The said plot was of the size of 6 x 26 mtrs.

2. After issuance of the said allotment letter, the petitioner firm challenged fixation of the reserve price in this court by filing CWP No. 10503 of 2010. During the pendency of the said petition, reserve price of the plot in question was revised by the respondent Board as Rs. 13,82,371/- and accordingly, time was granted to the petitioner firm to deposit the said amount as per condition of the allotment letter. Subsequently, vide order dated 17.10.2011 (Annexure P-14), the petitioner firm was permitted to withdraw the writ petition with liberty to challenge the said revision of the reserve price. Consequently, the instant writ petition was filed.

3. In the written statement, the method of calculating the reserve price has been given. According to the said method, when the draw of lots for allotment of plots in new mandi was held on 16.3.1993, reserve price of the plot of the size of 6 x 26 mtrs. was fixed at Rs. 1,25,325/-. After taking this reserve price as the base price, the respondent Board added compound interest at the rate of 15% per annum for the period from 1.4.1993 to 31.5.2010. After adding the said interest, reserve price of the plot of the size of 6 x 26 mtrs. was fixed at Rs. 13,82,371/-, which has been ordered to be charged from the petitioner firm.

4. Learned counsel for the petitioner firm argued that due to mistake of the respondent Board, the petitioner was not held eligible for allotment of plot being an old licensee whereas many similarly situated persons were also held ineligible. Ultimately, the Hon''ble Supreme Court found the action of the respondent Board not sustainable and ordered allotment of the plots to the old licensees, who were working in the old mandi for the last so many years. He further argued that when the draw of lots was held on 16.3.1993, the petitioner firm was entitled to be allotted plot at the reserve price prevalent at that time. Therefore, the respondent Board has arbitrarily and illegally charged compound interest at the rate of 15% per annum on the reserve price, without any justification and reason. Learned counsel further argued that there is no provision under the

Punjab Agricultural Produce Market Act, 1961 or the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000, for charging compound interest from the allottees.

5. Learned counsel for respondents No. 2 and 3 argued that the reserve price of the plot in question was fixed at Rs. 13,82,371/-, after adding compound interest at the rate of 15% per annum on the base price of Rs. 1,25,325/-. But during the course of arguments, learned counsel could not refer to any provision of the aforesaid Act, the Rules or the notification, which empowers the respondent Board to charge compound interest on the reserve price, and that too at the rate of 15% per annum.

6. After hearing learned counsel for the parties, keeping in view the facts and circumstances of the case as well as the fact that the petitioner firm was found eligible for allotment of plot on 16.3.1993, when the draw of lots was held, we are of the opinion that at the most the respondent Board may be justified in adding simple interest at the reasonable rate, i.e. at the rate of 12% per annum, on the base price of Rs. 1,25,325/- for the plot in question. The contention of learned counsel for respondents No. 2 and 3 that the respondent Board is entitled to charge compound interest at the rate of 15% per annum on the delayed payment, cannot be accepted, because interest has been added on the base price, as if the offered price would have been paid in the year 1993, and the respondent Board would have utilised the said amount. In order to meet that contingency, simple interest at the rate of 12% per annum can be added to the base price.

7. Consequently, the impugned order dated 14.6.2010 (Annexure P-7) is set aside to the extent of fixing the reserve price at Rs. 13,82,371/- for the plot in question and the respondent Board is directed to re-calculate the said price, after adding simple interest at the rate of 12% per annum on the base reserve price of Rs. 1,25,325/-, as was prevalent on 16.3.1993. The calculated amount be intimated to the petitioner firm within a period of two months from today, which shall be paid by the petitioner firm within a period of one month thereafter. Allowed in the aforesaid terms.