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**(2003) 05 P&H CK 0135**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 815 of 1985**

Pathana Ram and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 20-05-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (2004) 136 PLR 50 : (2003) 4 RCR(Civil) 395

**Hon'ble Judges :** Satish Kumar Mittal, J

**Bench :** Single Bench

**Advocate :** Yogesh Kumar Sharma, for the Appellant; Raghbir Chaudhary, D.A.G., for the Respondent

**Final Decision :** Allowed

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## Judgement

Satish Kumar Mittal, J.—In the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have impugned the order dated 22.8.1984 (Annexure P3) passed by the Joint Secretary (Rehabilitation)-cum-Settlement Commissioner, Haryana, Chandigarh (respondent No. 2 herein), vide which the sale of the land in dispute made in their favour in a restricted auction on 29.7.1970 has been set aside.

2. The brief facts of the case are that the petitioners belong to the Scheduled Caste community. After migration from Pakistan, initially they settled in Village Kapurgarh, District Patiala, but later on they shifted their residence to Village Aludin Majra, Tehsil and District Ambala. In the year 1970 i.e., on 28.4.1970, they purchased 6 kanals 9 marlas of land situated in village Sohana, Tehsil and District Ambala in a public auction, conducted by the respondents. Immediately after taking possession of the said land, the petitioners construed a small residential house on part of the said land and started living therein and cultivating the land with their own hands.

3. On 29.7.1970, respondent No. 4 conducted a restricted auction for sale of the

land measuring 19 kanals 6 marlas situated in village Sohana (which is land in dispute). In that auction, only the citizens belonging to Scheduled Castes were allowed to participate. Petitioners being members of the Scheduled Caste and residents of village Sohana participated in the said auction. They gave the highest bid for the sale of the aforesaid land for Rs.18725/-. Their bid was accepted and they were declared to be the highest bidders. They paid the earnest money as per the terms and conditions of auction and were delivered possession of the land. That auction held in favour of the petitioners was later on duly approved and confirmed by the Settlement Officer (Sales) Haryana (respondent No. 3 herein) on 7.5.1971.

4. Admittedly, the petitioners paid the entire sale consideration of the aforesaid land. In spite of the fact that the entire sale consideration was paid, the conveyance deed was not executed by the respondents in their favour. The petitioners approached the respondents many times with the request to execute the conveyance deed in their favour, but the respondents avoided the execution of the conveyance deed and kept on putting off the petitioners on one pretext or the other whenever they visited the office. When the petitioners put more pressure for execution of the conveyance deed, respondent No. 4 recommended to respondent No. 2 for setting aside the auction sale made in their favour on the ground that when the aforesaid land in question was auctioned in favour of the petitioners, they were not the residents of Haryana, On the basis of the aforesaid recommendation, vide order dated 22.8.1984 (Annexure P3), respondent No. 2 set aside the auction sale made in favour of the petitioners after observing that they were not belonging to the State of Haryana. It has been held that as per the instructions dated 17.7.1970 in every restricted auction only the Harijans belonging to the State of Haryana were entitled to participate. The aforesaid order has been impugned in this writ petition.

5. I have heard the arguments of learned counsel for both the parties and have perused the record of the case.

6. Admittedly, the petitioners are the members of the Scheduled Castes. They were the highest bidders in the restricted auction of the land in question held on 29.7.1970. It is also undisputed that the aforesaid auction in favour of the petitioners was confirmed by the competent authority on 7.5.1971. It is also not disputed that the entire sale consideration was paid by the petitioners and thereafter, the respondents were duty bound to execute the conveyance deed. After 13 years of the sale in favour of the petitioners, the sale was set aside by respondent No. 2 on the ground that at time of auction the petitioners did not belong to the State of Haryana. On the face of it, the auction sale made in favour of the petitioners is not liable to be set aside. In paragraph 3 of the writ petition, the petitioners have specifically pleaded that prior to the date of the auction sale in question (i.e. 29.7.1970), the petitioners had already purchased 6 kanals 9 marlas of land situated in the same village in a public auction conducted by the respondents department and they have started living in the said village after

raising construction on the said land. The said fact has not been disputed by the respondents in their written statement. They only averred that the petitioners belong to the State of Punjab. Not only this, when the show cause notice was issued to the petitioners by respondent No. 2, before cancellation of the auction sale, the petitioners appeared before the authority and filed a certificate (Annexure P2), issued by the Sarpanch, Gram Panchayat Village Alaudin Majra, Tehsil and District Ambala to the effect that the petitioners were living in that village before July, 1970. This averment made in paragraph 7 of the writ petition has also not been disputed by the respondents. Since the petitioners had purchased the land in the village prior to the date of auction sale, it cannot be said at all that they do not belong to the State of Haryana. Further, when the sale was confirmed as back as on 7.5.1971, the said auction sale cannot be set aside after 13 years on the aforesaid ground which was an irregularity in the conduct of the auction sale. The setting aside of auction sale after 13 years, particularly when the petitioners had already paid the entire sale consideration is wholly illegal, arbitrary and unjustified.

7. In view of the aforesaid discussion this writ petition is allowed and the impugned order dated 22.8.1984 (Annexure P3) passed by respondent No. 2 is hereby quashed and the respondents are directed to execute the conveyance deed regarding the land in question auctioned in favour of the petitioners in the restricted auction held on 29.7.1970 within a period of three months.

No order as to costs.