
(2012) 03 P&H CK 0166
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10171 of 2011

Smt. Kasturi Devi

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Haryana Urban Development Authority Act, 1977 — Section 17(1), 17(2), 17(3), 17(4)

Citation : (2012) 03 P&H CK 0166

Hon'ble Judges : Hemant Gupta, J;A.N. Jindal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—Challenge in the present writ petition is to the orders dated 29.4.2003 (Annexure P-2) passed by the Estate Officer, HUDA and the order dated 26.7.2005 (Annexure P-4) passed by Chief Administrator and the order dated 10.5.2011 (Annexure P-9) passed by the Financial Commissioner exercising the powers of the State Government, resuming and affirming the order of resumption of booth No. 205, Sector 4, Mansa Devi Complex, Panchkula. One Tejinder Singh (deceased) was allotted the aforesaid booth vide the letter of allotment dated 3.4.2000. The allottee was to deposit 25% of the sale price i.e. Rs. 41,850/- with a period of 30 days from the date of issue of the allotment letter and the balance 75% either in lump sum within 60 days without interest or in 10 half yearly installments along with interest. The letter of allotment contains a schedule of payment as well.

2. Petitioner was served with a show cause notices under Sections 17(1), 17(2), 17(3), 17 (4) of the Haryana Urban Development Authority Act, 1971 (for short the "Act") between the period 23.8.2001 to 10.3.2003. The allottee failed to deposit any amount of the balance 75% of the tentative price and the finding that a sum of Rs. 2,01,300/- is still due, an order of resumption was passed by the Estate Officer on 29.4.2003.

3. An appeal was filed against the said order, which was dismissed by the Administrator exercising the power of the Chief Administrator on 26.7.2005. It was found that the allottee has failed to avail all the opportunities given to him to deposit the outstanding dues. After the appeal was dismissed, one Mukesh Kumar deposited the amount in parts in the bank account of HUDA from 16.9.2005 till 8.8.2006, total amounting to Rs. 3,30,000/-. In the meantime, on 31.12.2005, Tejinder Singh died. Kasturi Devi claimed the estate of Tejinder Singh on the basis of the Will dated 13.12.2005. On the basis of the Will as a Legal heir of the deceased, the petitioner filed a revision before the State Government, which has since been dismissed vide the order dated 10.5.2011 (Annexure P-9).

4. Learned Counsel for the petitioner relies upon a Division Bench judgment of this Court reported as Anil Kumar v. Union Territory, Chandigarh and others, 2006(1) PLR 454, to contend that petitioner has deposited the entire outstanding amount due to the respondents and is ready & willing to deposit any other amount which is still due and payable, therefore, the booth should not be resumed and the order of resumption passed by the authorities to be set aside.

5. We have heard Learned Counsel for the parties and find that the petitioner has deposited the amount unilaterally after the appeal was dismissed without seeking any permission from any competent authority in the bank account of the respondents. Such unilateral deposit without any permission after resumption of the plot is unauthorized and cannot confer any equitable right in favour of the petitioner.

6. The counterfoil of deposit of the amount of Rs. 41580/- by Tejinder Singh on 29.4.2000, a photocopy of which was produced in Court, shows that it is signed by Tejinder Singh in urdu whereas the Will relied upon by the petitioner bears the thumb impression of the deceased Tejinder Singh. Without commenting about the validity of the due execution of the Will, we find that the fact remains that the balance sale price was deposited after the appeal was dismissed. A firm finding was recorded that the opportunities given to the allottee to deposit the outstanding amount remained unsuccessful from the year 2001 to 2005.

7. Anil Kumar's case (supra), the Court has set aside the order of resumption keeping in view the peculiar facts of the case. There is no universal principal of law which can be culled down that in all cases, the resumption order has to be set aside if the deposit of the outstanding dues is offered to be made.

8. Keeping in view the facts and circumstances of the case and the conduct of the petitioner in depositing amount in the bank account of the HUDA unilaterally, we do not find any illegality or irregularity in the orders passed by the authorities, which may warrant interference in the writ jurisdiction of this Court. Dismissed.