
(2011) 03 P&H CK 0230
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 4379 of 1990

Smt. Kulwant Kaur

APPELLANT

Vs

Estate Office, U.T. Chandigarh and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Citation : (2011) 03 P&H CK 0230

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The writ petition challenges the order of Respondent No. 2 passed on 22.7.1980, cancelling the lease of Site No. 3855, Sector 32-D, Chandigarh which was allotted to the Petitioner. A subsequent order had been passed on 12.12.1989, by Respondent No. 3 holding that installment has not been paid within time. The challenge in the writ petition was that cancellation had been made without serving notice to her. The lease was for a long period of 99 years and the installment payable was Rs. 13,048/-.

2. From the records, I find that site was conditionally restored on 22.7.1980, subject to payment within a particular period stipulated. Since the amount had not been paid within the said stipulated period, the Advisor to the Administrator of U.T. Chandigarh held that she was not entitled to any indulgence and dismissed her appeal filed before him.

3. There is no representation for the Petitioner before this Court. I have examined the case with the assistance of the Counsel appearing for the Respondents-Chandigarh Administration. Learned Counsel appearing for the Respondents refers to a judgment of the Hon''ble Supreme Court in Municipal Corporation, Chandigarh and Ors. v. Vipin Kumar Jain in SLP (Civil) No. 12968 of 2006 where the Hon''ble the Supreme Court had held as follows:

Auction is a price-discovery mechanism which falls in the contractual realm. In

the present case we are concerned with commercial sites. Auction is basically an exercise in raising revenues for the Government. When the price is not paid within time it results in loss of revenue to the State. Time is the essence of the contract in matters concerning auction. Property prices rise by the day.

4. If the issue were to be merely dealt with on the ground whether the Petitioner who had not paid the amount within a stipulated time could insist on a right of allotment, then the proposition set down by the Hon"ble Supreme Court would immediately govern and fetter the Petitioner to stake a claim over the allotment. On the other hand, there has been a favourable intervention for the Petitioner through a direction given by this Court on 2.4.1990, at the time when it issued notice of motion and when it had stayed the impugned orders, subject to clearing all the installments within one month. It is admitted by the learned Counsel appearing on behalf of the Respondents that installments had been paid within one month as directed and the property continued to be in possession of the Petitioner. I will not, in such a situation, allow the resumption to take effect. The order of resumption which is already passed is quashed. The Administration shall, however, be at liberty to claim any unpaid charges that might remain, in accordance with law.

5. The writ petition is allowed to the above extent.