

(2007) 02 P&H CK 0157
In the Punjab And Haryana At Chandigarh
Case No : 719-2014 (O&M)

State of Haryana	Vs	APPELLANT
Sarbjit Singh Purewal and others		RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Citation : Amit Rawal

Hon'ble Judges : 2017 0 CJ(P&H) 98

Bench : SINGLE BENCH

Advocate : Sandeep Singh Mann, C.B. Goel, Som Nath Saini

Final Decision : Disposed

Judgement

1. This order of mine shall dispose of the writ petition bearing CWP No.719 of 2014 titled as ""State of Haryana V/s Sarbjit Singh Purewal and others"" and the Execution Application bearing EA No.29 of 2013 titled as ""Sarbjeet Singh Purewal V/s State of Haryana and others"".
2. The petitioner-State of Haryana is aggrieved of the order dated 21.08.2001 of the Finance Commissioner-cum-Principal Secretary to Government of Haryana, Rehabilitation Department, whereby the revision petition filed by Sarbjit Singh Purewal directing him to first vacate the land occupied unauthorizedly only then the Department had been directed to complete the formalities i.e. sale procedure and issuance of sale certificate for Khasra No.1656 and 1657.
3. Mr. Sandeep Singh Mann, Sr. DAG, Haryana submits that the order, aforementioned, was challenged by both the parties i.e. CWP-15636

of 2001 at the instance of Sarbjit Singh Purewal and CWP No.236 of 2003 at the instance of State of Haryana. The Division Bench of this Court in CWP No.15636-2001 preferred by the Sarbjit Singh Purewal set aside the operative part of findings with regard to the vacation of the unauthorized occupation of the property, though, upheld the rest of the findings i.e with regard to the Khasra No.1656 and 1657. In fact, it was Darshan Singh, who had given the bid for the khasra number bearing No.1657, but that bid was not accepted being less than reserved price. For that purpose, he has shown the photocopy of the proceedings to this Court.

4. He further submits that a review application bearing No.22 of 2002 against the order dated 16.09.2002 passed in CWP No.15636 of 2001 was filed in this Court and the Division Bench of this Court gave a liberty to the State of Haryana to file the review application with regard to the khasra No.1657, in essence, whether the finding recorded in this respect of the aforementioned khasra number was correct or otherwise. Resultantly, the review application was filed before the Financial Commissioner, which accepted the order and held that khasra No.1657 was never put to auction, much less, the auction was never confirmed in favour of the Darshan Singh. The aforementioned order was challenged by the contesting respondent(s)- Sarbjit Singh Purewal, herein, vide CWP No.19712 of 2003 (Annexure P-8), wherein on going through the provisions of the statute and as well as the judgments of the Hon"ble Supreme Court, it was held that the Financial Commissioner did not have any power to review. It is, in this backdrop of the matter, the present writ petition has been filed. No documentary evidence has been placed on record to establish whether Darshan Singh had any authority on behalf of Sarbjit Singh Purewal to give the bid, thus, the order under challenge is liable to be set aside.

5. Per contra, Mr. Som Nath Saini, learned counsel appearing on behalf of respondent No.1 submits that the writ petition is highly belated and hit by Doctrine Akin to ""Delay and Latches"", much less, the order

under challenge cannot be assailed second time once it has, in view of the order dated 16.09.2002, already been given a nod of this Court.

6. He further submits that in case of any grievance on the part of the State, order dated 06.07.2012 passed in CWP No.19712 of 2003 could have been challenged by filing the LPA, but owing to the opinion given by AG Office, no LPA had been filed. Even the successor-in-interest of Darshan Singh also filed a writ petition bearing CWP No.13158 of 1998 (Annexure R-1/5) challenging the action of the State in not confirming the auction, but the same vide order dated 30.07.1999 has been dismissed by this Court. In fact the State is playing in the hands of LR's of Darshan Singh, thus, urges this Court for dismissal of the present writ petition.

7. Similar is the argument of Mr. C.B. Goel, learned counsel appearing on behalf of respondent Nos.3 to 6.

8. I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Sandeep Singh Mann, Senior DAG, Haryana. The operative part of the order dated 16.09.2002 passed in CWP No.15636 of 2001 reads as under:-

""While setting aside part of the order, mentioned above, we make it very clear that the respondents would be at liberty to proceed against the petitioner for his eviction from the land, which is in his unauthorized occupation, in accordance with law and with regard to the land bearing khasra Nos.1656 and 1657, sale certificate be issued. We make it further clear that any one who may stake claim with regard to the land, which is in unauthorized occupation of the petitioner, shall be entitled to be heard.

9. The petition stands disposed of accordingly.""

The aforementioned order irresistibly leads to a conclusion that finding with regard to the direction qua khasra No.1656 & 1657 and issuance of sale certificate has already been upheld. If at all the State was aggrieved, it could have filed LPA against the order dated 16.09.2002. Having failed to do so, cannot be permitted to challenge the order again by taking the benefit of dismissal of the review application, liberty of which

was granted vide order dated 28.02.2003. The matter cannot be opened at the drop of the hat, even after a delay of more than 13 years. In my view, the writ petition was not maintainable as the LRs of Darshan Singh have already failed to succeed in getting the confirmation of the auction in their favour. No explanation has come forth in not filing the writ petition for a period of two years as the writ petition bearing No.19712 of 2003 was decided on 06.07.2012. The State cannot be permitted to be at stage/platform of loggerhead on the matter and cause all possible impediments and hindrances in respect of the property being put to auction.

10. There is no force in the submissions of Mr. Sandeep Singh Mann, Sr. DAG, Haryana that the order rejecting the conformation in favour of Darshan Singh had never been challenged, for the reasons given hereinbefore.

11. Since the finding with regard to the khasra numbers, aforementioned, has already been upheld, I deem it appropriate to issue a direction to the respondent(s) to issue sale certificate in respect of khasra No.1656 and 1657, after completion of the sale procedure and receipt of the balance sale consideration, if any, within a period of two months from the date of the receipt of the certified copy of this order.

12. For the foregoing reasons, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is made out for interference and accordingly, the writ petition dismissed.

13. With the aforesaid observations, the present writ petition is dismissed and the Execution Application stands disposed of.