

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No.13511 of 2004

Date of Decision: August 20, 2013

Hem Raj Bansal and another

...Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN**

Present: Mr. Arvind Singh, Advocate,
for the petitioners.

Mr. Ajay Kumar Kansal, Advocate,
for the respondents.

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SATISH KUMAR MITTAL, J. (Oral)

The petitioners, who are husband and wife, were allotted booth site No.85, Sector 6, Urban Estate, Panchkula vide allotment letter dated 29.9.1989 (Annexure P-1). This allotment was made on the basis of open auction conducted by the HUDA on 14.9.1989. The petitioners gave highest bid for a sum of Rs.4,16,000/- for the said plot. 10% amount of the sale consideration, i.e., Rs.41,600/- was deposited by the petitioners at the fall of hammer and the 15% amount, i.e., Rs.62,400/- was paid on 30.10.1989. As per the allotment letter, the remaining 75% amount was to be paid by the petitioners in ten half-yearly installments of Rs.31,200/- with interest. The detail of the installments, as given in the allotment letter, is reproduced as under:-

Sr.No.	Due Date	Principal	Interest	Total
1.	29.3.90	31200.00	15600.00	46800.00
2.	29.9.90	31200.00	14040.00	45240.00

3.	29.3.91	31200.00	12480.00	43680.00
4.	29.9.91	31200.00	10920.00	42120.00
5.	29.3.92	31200.00	9360.00	40560.00
6.		31200.00	7800.00	39000.00
7.		31200.00	6240.00	37440.00
8.		31200.00	4680.00	35880.00
9.		31200.00	3120.00	34320.00
10.		31200.00	1560.00	32760.00

Undisputedly, the petitioners paid first installment of Rs.46,800/- with interest. However, the subsequent installments could not be paid by the petitioners. Thereupon, the petitioners were issued notices under Section 17(1) of the Haryana Urban Development Authority Act, 1977 (for short 'the Act') on 7.3.1991, under Section 17(2) on 28.10.1991 and under the same sub-section again the notice was issued on 9.3.1992, but in response to the aforesaid notices, the petitioners could not deposit the due amount of installments. Thereafter, again notices were issued to the petitioners under Section 17(3) on 6.5.1992, under Section 17(4) on 4.6.1992, under Section 17(4) on 25.6.1992 and under Section 17(3) of the Act on 14.7.1992. Again in response to those notices the petitioners did not deposit the due amount. In the months of August and September, 1992 again three different notices were issued to the petitioners under Section 17(4) of the Act for depositing the outstanding amount. But, in spite of those notices also, the petitioners did not clear the outstanding amount. Ultimately, vide order dated 13.11.1992 (Annexure P-12) passed by the Estate Officer, HUDA, Panchkula the plot allotted to the petitioners was ordered to be resumed with forfeiture of Rs.41,600/-.

Feeling aggrieved against the aforesaid order, an appeal was filed by the petitioners on 11.12.1992 (Annexure P-13), but the said appeal

remained pending for ten years and ultimately vide order dated 11.06.2002 (Annexure P-20) the same was rejected. Before the Appellate Authority an option was given to the petitioners to deposit all the outstanding dues, but the petitioners were not in a position to deposit the same, therefore, they showed their willingness to get refund of the amount deposited by them after deduction of forfeited amount.

Feeling aggrieved against the aforesaid order, the petitioners filed revision petition and the same was also dismissed by the Revisional Authority vide order dated 6.1.2004 (Annexure P-23). The Revisional Authority finding no force in the arguments advanced by the petitioner to restore the site to him at the price as on the date of resumption, i.e. 13.11.1992 at this belated stage, but ordered for conducting a detailed enquiry as to why the appeal filed by the petitioners was kept pending for ten years. When no satisfactory reply was given, to that extent it was ordered that the said aspect would be looked into by the Chief Vigilance Officer, HUDA. During the hearing of the revision petition, it was also pointed out by the counsel for the respondents that before filing of the revision petition an amount of Rs.1,09,454/- was refunded to the petitioners on 23.8.2002. In these circumstances, the petitioner was awarded compensation of ₹ 15,000/-.

The petitioners have challenged the aforesaid three orders in the instant writ petition.

We have heard the learned counsel for the parties.

It has not been disputed before us that after making payment of first installment with interest on 10.4.1990 the petitioners did not pay the remaining installments till the date of passing of the resumption order on

13.11.1992 in spite of several notices issued to them. In this regard it has been argued by the learned counsel for the petitioners that due to financial difficulties, petitioner No.1, who is an ex-serviceman, could not clear the outstanding dues. It has also not been disputed that during the pendency of the appeal an option was given to the petitioners to clear the outstanding dues, but again due to financial difficulties it was beyond the capacity of the petitioners to clear the outstanding dues in one go. Be that as it may, the fact remains that the petitioners have not paid the installments of outstanding dues except the first installment. In these circumstances, the respondents were fully justified to pass the order of resumption in terms of the provisions of the Act.

Faced with this situation, learned counsel for the petitioners argued that on the date of resumption, i.e., 13.11.1992, the respondents were under the legal obligation to refund the remaining amount after deducting the forfeiture amount and the said amount was refunded to the petitioners on 23.8.2002. He further argued that the respondents-authorities are bound to pay the interest for the said period. Learned counsel for the respondents could not controvert this factual and legal position, particularly when petitioner No.1 in this case is an ex-serviceman and due to his family circumstances and financial constraints he could not deposit the due amount as a result of which the booth allotted to him was ordered to be resumed with forfeiture of Rs.41,600/-.

We do not find any illegality in the impugned order of resumption dated 13.11.1992 passed by the authorities. However, keeping in view the facts and circumstances of the case, particularly the status of petitioner No.1 being an ex-serviceman, we direct the respondents to grant

interest to the petitioners on the amount of Rs.1,09,454/- from 13.11.1992 (date of resumption) to 23.8.2002 (date of refund) at the rate of 12% per annum with yearly interest. We specifically order for yearly interest in view of the fact that the booth in question is vacant till date and it will fetch handsome amount in the subsequent auction which the respondent-HUDA is now at liberty to do as well as the fact that without any justification the respondents authorities kept the petitioners appeal pending for ten years and further keeping in view the observations made by the Revisional Authority with regard to culpable negligence of the Estate Officer and Administrator, HUDA, Panchkula. The amount, so calculated, be remitted to the petitioners within a period of three months.

The writ petition is disposed of in the aforesaid terms.

(SATISH KUMAR MITTAL)
JUDGE

August 20, 2013
vkg

(MAHAVIR S. CHAUHAN)
JUDGE