

Status Dismissed

827
15/9/14

W-10

DP No.-

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

To,

- 1) State of Haryana through its Financial Commissioner-cum-Secretary, Department of Town and Country Planning, Haryana Govt. Haryana Civil Secretariat, Chandigarh.
- 2) Chief Administrator, Haryana Urban Development Authority, Sector 6, Panchkula.
- 3) Administrator, Haryana Urban Development Authority, Sector 6, Panchkula.
- 4) Estate Officer, Haryana Urban Development Authority, Sector 6, Panchkula.

Subject:- Civil Writ Petition No. 13547 of 2014
Madhu Bhatla

Petitioners

Versus

State of Haryana and others

Respondent(s)

Sir,

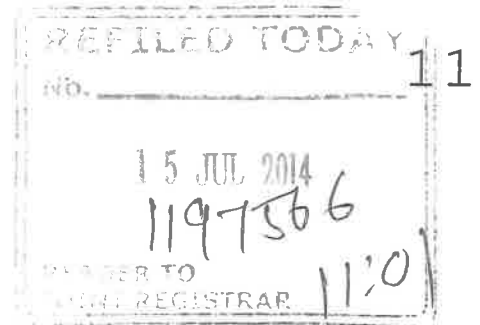
In continuation of this Court's order dated _____ I am directed to forward herewith a copy of Order dated 16.07.2014 passed by this Hon'ble High Court in the above noted Civil Writ Petitions, for immediate strict compliance alongwith copy of

BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Given under my hand and the seal of this Court on this 14th day of August 2014.

Superintendent (Writ)
For Assistant Registrar (Writ)





**IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH**

CWP No. 13547 of 2014

Madhu Bhatla wife of Rakesh Bhatla, resident of
H.No.129, Sector 12-A, Panchkula.

...Petitioner

Versus

1. State of Haryana through its Financial Commissioner-cum-Secretary, Department of Town and Country Planning, Haryana Govt. Haryana Civil Secretariat, Chandigarh.
2. Chief Administrator, Haryana Urban Development Authority, Sector-6, Panchkula.
3. Administrator, Haryana Urban Development Authority, Sector-6, Panchkula.
4. Estate Officer, Haryana Urban Development Authority, Sector-6, Panchkula.

....Respondents

CIVIL WRIT PETITION Under Article 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of certiorari dated 30.04.2002, Annexure P/7, the order dated 04.10.2002 Annexure P/8, order dated 16.09.2010, order dated 20.11.2013, Annexure P/14, and order dated 14.03.2014, Annexure P/16 being illegal, malafide ultra vires the provisions of the Rules of 1973 and violative of Article 14 and 19(1)(g) of the Constitution of India;

AND

For directing the respondents from removing the seal and opening the built up Booth No.30, Sector 15-C, Panchkula

AND

For such other appropriate writ, order of direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 13547 of 2014 (O&M)

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Date of decision : 16.07.2014

Madhu Bhatla

Petitioner

Versus

State of Haryana and others

Respondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Arun Jain, Senior Advocate with
Mr. Arjunveer Sharma, Advocate
for the petitioner.

SURYA KANT, J.

[1] The petitioner seeks quashing of orders dated 30.04.2002, 04.10.2002, 20.11.2013 and 14.03.2014, (Annexures P-7, P-8, P-14 and P-16), besides a writ of mandamus to direct respondent-HUDA authorities to remove the seal and open the built up Booth No. 30-P, Sector 15-C, Panchkula. It may be mentioned at the outset, that vide the impugned orders, the booth in question was resumed, eviction proceedings were initiated and the orders passed in those proceedings have been upheld by the appellate and revisional authorities.

[2] Brief facts giving rise to these proceedings are as follows:-

(a) Booth No. 30-P, Sector 15-C, Panchkula was allotted to Manjit Singh Bedi and Dalbir Bedi vide allotment letter dated

30.01.1996/05.02.1996 (Annexure P-1). The allotment was made through public auction held on 30.01.1996. The allottees deposited 25% of the allotment price within specified period. Soon thereafter, the allottees are said to have executed General Power of Attorney (GPA) in favour of the petitioner on 27.05.1996 (Annexure P-2). It is, however, undeniable that the subject booth was neither re-allotted nor transferred in the name of the petitioner.

(b) The balance 75% allotment price was required to be deposited in half-yearly installments as per clause 22 of the allotment letter (Annexure P-1), which reads as follows:-

Instalment No.	Principal	Possession interest	offer Total
1.	Rs. 71,625.00	Rs. 53,718.75	Rs. 1,25,343.75
2.	Rs. 71,625.00	Rs. 48,346.88	Rs. 1,19,971.88
3.	Rs. 71,625.00	Rs. 42,975.00	Rs. 1,14,600.00
4.	Rs. 71,625.00	Rs. 37,603.13	Rs. 1,09,228.13
5.	Rs. 71,625.00	Rs. 32,231.25	Rs. 1,03,856.25
6.	Rs. 71,625.00	Rs. 26,859.38	Rs. 98,484.38
7.	Rs. 71,625.00	Rs. 21,487.50	Rs. 93,112.50
8.	Rs. 71,625.00	Rs. 16,115.63	Rs. 87,740.63
9.	Rs. 71,625.00	Rs. 10,743.75	Rs. 82,368.75
10.	Rs. 71,625.00	Rs. 5,371.88	Rs. 76,996.88

(c) Concededly, the original allottees or the petitioner - their GPA, did not deposit even a single installment as per the time schedule or otherwise. The petitioner appears to have raised a dispute for not delivering physical possession of the booth, which was allegedly occupied by Electricity Board for a period of 3-4 months after the allotment.

(d) The allottees refused to deposit the installments as

according to their GPA, interest at the rate of 18% could not be levied.

(e) HUDA authorities served the allottees with notices under Section 17 (1)(2) and (3) of the HUDA Act, 1977 (for short 'the 1977 Act') but despite eight such notices on different dates the allottees did not deposit the due installments, hence, the allotment was cancelled and the site was resumed vide order dated 30.04.2002 (Annexure P-7).

[3] The petitioner in her capacity to GPA filed appeal against the order of resumption on 23.05.2002 which was dismissed on 04.10.2002 (Annexure P-8).

(a) The aggrieved petitioner came to this Court in CWP No. 17829 of 2002 but that was dismissed as withdrawn on 11.11.2002 (without any further liberty).

(b) Thereafter, no further challenge was laid to the resumption proceedings before any forum.

[4] As the petitioner did not vacate the booth premises, eviction proceedings under Section 18 of the 1977 Act were initiated and the eviction order came to be passed. The petitioner challenged the eviction order in appeal and pending that appeal, again came to this Court in CWP No. 21111 of 2010 challenging the resumption of the booth site.

(a) A Division Bench of this Court dealt with all the possible contentions raised by the petitioner and came to the conclusion that "the authorities definitely cannot be faulted for having notices for resumption and thereafter passing the order of resumption on

07.03.2002”.

(b) This Court, thereafter, took notice of the fact that the petitioner's appeal in the eviction proceedings was still pending. Consequently, while dismissing the writ petition (so far as the resumption proceedings were concerned), liberty was granted to the petitioner to pursue her appeal pending with the appellate authority since 2010.

(c) The petitioner assailed the self-speaking decision dated 10.04.2013 of this Court before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 27958 of 2013 which she, however, withdrew “with liberty to pursue the remedy of appeal”.

(d) The appellate authority dismissed the petitioner's appeal in the eviction proceedings vide order dated 20.11.2013. In these appellate proceedings also, the petitioner made yet another attempt to question the validity of resumption order but her contention was rightly repelled by the appellate authority observing as follows:-

“ I am of the considered view that the Estate Officer while exercising power of eviction under Section-18 of the HUDA Act has only to see whether the person in occupation of booth was in occupation under valid authority or not. In the present case, there is no denial of the fact that consideration amount was not paid within stipulated period of time which resulted into passing of the resumption order on 07.03.2002. This order of resumption had attained finality as appeal was dismissed by the appellate authority and subsequently civil suit was dismissed, writ petition was also dismissed and Special Leave Petition was

dismissed as withdrawn."

[5] The relentless petitioner filed a revision petition before the State Government under the 1977 Act, which has also been dismissed by way of an elaborate order, *inter alia*, observing that the resumption of the site was perfectly valid as the allottees failed to deposit the due installments despite repeated notices; the balance allotment price was not paid despite re-scheduling of the installments from 05.08.1996 onwards; deposit of ₹ 8,01,250/- by the petitioner in the bank account of HUDA after passing of the resumption order was inconsequential as it was so done without the approval of competent authority and that no fault could be found with the eviction order etc.

[6] Still aggrieved, the petitioner has filed the instant petition.

[7] We have heard learned senior counsel for the petitioner and gone through the record.

[8] As the facts which speak for themselves, the resumption order was passed in the year 2002 and appeal against the same was also dismissed in that very year. The writ petition filed by the petitioner was also dismissed as withdrawn without any further liberty. No further action was taken by the allottees/petitioner against the resumption proceedings which have, thus, attained finality.

[9] The petitioner, however, abused the process of law when she again approached this Court in CWP No. 21111 of 2010 questioning the resumption order(s). This Court took a lenient view and instead of dismissing the petitioner's petition on the principle of *res judicata*, considered and rejected her every contention on merits. The liberty granted to the petitioner to pursue

her appeal was limited to the eviction proceedings and not the resumption proceedings. The Hon'ble Supreme Court also permitted the petitioner to pursue her appeal, which pertained to the eviction proceeding only and not the resumption order.

[10] In these circumstances, the petitioner cannot be permitted to re-agitate against the resumption proceedings time and again.

[11] Suffice to observe that once resumption order has attained finally and booth site stands restored in favour of HUDA, which is a public authority, there is no illegality in the eviction proceedings initiated against the petitioner under Section 18 of the Act as she was (before the booth was sealed) in its unauthorised occupation.

[12] We may also observe, at this stage, that the petitioner has no locus standi to institute the proceedings at her own. She is not the allottee of this site. She only claims to be the General Power of Attorney of the original allottees. We have, however, not rejected the petitioner's claim on this ground for the reason that earlier this Court as well as appellate and revisional authorities have entertained petitions on behalf of the petitioner.

[13] Dismissed.

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JU

(LISA GILL)
JUDGE

July 16, 2014
rts

Drafted
by de mae

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