

D.P. No. 151100/50328

1500  
18/4/12

W-10

236

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

To,

CA 2215  
25/4/12

Receipt No. 4384  
Date 24-4-12  
O/o F.C.T.C.P.

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

24/4/12  
FC/CP

CA/1000  
CA/1000  
25.4.12  
PSC

update;

SUBJECT :- CIVIL WRIT PETITION No. 10171 of 2011.

D.A. Smt. Kasturi Devi

...Petitioner(s)

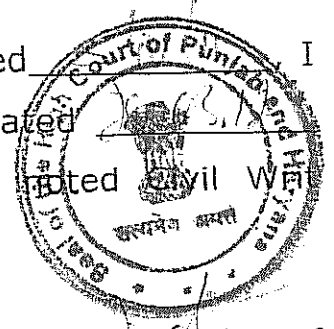
25-4-12 State of Haryana and and

Versus

...Respondent(s)

Sir,  
A/Bhawana

In the continuation of this Court's order dated 25/4/12 I am directed to forward herewith a copy of order dated 25/4/12 passed by this Hon'ble High Court in the above stated Civil Writ Petition, for immediate strict compliance.



Given under my hand and the seal of this Court on 25/4/12 day of April, 2011.

25/4/12  
with scan  
Bhawana

26/04/12  
RK(S-R)

BY ORDER OF THE PUNJAB AND HARYANA HIGH COURT, CHANDIGARH.

Superintendent(WRITS)  
for Assistant Registrar (WRITS)

*[Handwritten signature]*

297

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

C.W.P. No. 107 of 2011

Smt. Kasturi Devi wife of Mr. Mukesh Kumar R/o  
village Beansa Tib Mansa Devi Road , Panchkula  
Legal Representative of Sh. Tejinder Singh  
(Deceased).

.... Petitioner.

Versus

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

.... Respondents.

CIVIL WRIT PETITION UNDER ARTICLES  
226/227 OF THE CONSTITUTION OF  
INDIA FOR ISSUANCE OF A WRIT IN

238  
/0

THE NATURE OF CERTIORARI FOR  
QUASHING THE IMPUNGED ORDER DATED  
10.05.2011 (**Annexure P-9**) PASSED  
BY THE RESPONDENT NO.1 WHEREBY  
THE REVISION PETITION FILED BY THE  
ALLOTTEE (DECEASED) AGAINST THE  
ORDER OF THE LD. ADMINISTRATOR,  
HARYANA URBAN DEVELOPMENT  
AUTHORITY, PANCHKULA I.E.  
(**Respondent no.3**) DATED 26.7.2005  
i.e. (**Annexure P-4**) WAS DISMISSED  
AND THE RESUMPTION ORDER DATED  
29.4.2003 i.e. (**Annexure P-2**)  
PASSED BY THE ESTATE OFFICER,  
HARYANA URBAN DEVELOPMENT  
AUTHORITY, PANCHKULA i.e.  
(RESPONDENT NO.4) WAS CONFIRMED.

AND

FOR ISSUANCE OF A WRIT IN THE  
NATURE OF MANDAMUS FOR DIRECTING  
THE RESPONDENTS TO RESTORE BACK  
THE BUILT UP BOOTH IN QUESTION IN  
THE NAME OF THE LR OF THE  
ALLOTTEE (DECEASED) SMT. KASTURI

028

DEVI KEEPING IN VIEW THE FACT THAT  
THE PETITIONER HAS ALREADY  
DEPOSITED THE ENTIRE BALANCE  
TENTATIVE PRICE OF THE BOOTH IN  
QUESTION IN THE YEAR 2006 DURING  
THE PENDENCY OF REVISION PETITION  
BEFORE THE RESPONDENT NO 1 AND THE  
SAME WAS DULY ACCEPTED BY THE  
RESPONDENT OFFICE No 4 AND FURTHER  
IN VIEW OF THE JUDGEMENT OF  
HON'BLE SUPREME COURT OF INDIA IN  
JASBIR SINGH BAKSHI VERSUS UNION  
TERRITORY ,CHANDIGARH REPORTED AS  
2004 (3) PLR PAGE 20 AND M/S GAGAN  
FOODS PROCESSORS (P) LTD VERSUS  
UNION TERRITORY,CHANDIGARH AND  
OTHERS REPORTED AS 2003(2) R.C.R  
(CIVIL) 645 AND JUDGEMENT PASSED  
BY OUR HON'BLE COURT IN M/S G.K  
.AUTO ENGINEERS VERSUS STATE OF  
PUNJAB AND OTHERS REPORTED AS  
2005(3) PLR 62 IN THE INTEREST OF  
JUSTICE .

OR

ANY OTHER WRIT, ORDER OR DIRECTION WHICH THIS HON'BLE COURT DEEMS FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THIS CASE MAY ALSO BE ISSUED.

Respectfully Showeth:-

1. That the Petitioner is a resident of Haryana state and being a citizen of India is entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court.

2. That the facts postulating the filing of the present writ petition are summed up hereunder:-

- a) That the respondent No.4 on free hold basis invited the applications for commercial Built Up booths in Sector-4, MDC Panchkula and in pursuance to the same the allottee (deceased) was allotted one commercial booth bearing No 205, Sector-4- MDC, Panchkula and the tentative cost of the Built Up Booth was Rs.-2,79,000/-.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Date of Decision: 28.3.2012  
CWP No. 10171 of 2011

Smt. Kasturi Devi

...Petitioner

Versus

The State of Haryana and ors

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE A.N.JINDAL**

Present: Mr. Sanjeev Sharma, Sr. Advocate with  
Mr. Gaurav Bakshi, Advocate for the petitioner.

Mr. S.S. Pattar, Sr. DAG, Haryana for respondent No. 1.

Mr. Siddharth Batra, Advocate for respondents No. 2 to 4.

**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.

Petitioner was served with a show cause notices under Sections 17(1), 17(2), 17(3), 17 (4) of the Haryana Urban Development Authority

PUNJAB AND HARYANA HIGH COURT

247

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.

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).

Learned counsel for the petitioner relies upon a Division Bench judgment of this Court reported as Anil Kumar vs. 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.

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

PUJIAE AND HARYANA HIGH COURT

ge 3

permission after resumption of the plot is unauthorized and cannot confer any equitable right in favour of the petitioner.

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.

In 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.

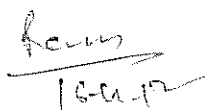
Keeping in view the facts and circumstances of the case and the conduct of the petitioner in depositing amount in the bank account of the HUDA unilaterally, we do not find any illegality or irregularity in the orders passed by the authorities, which may warrant interference in the writ jurisdiction of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

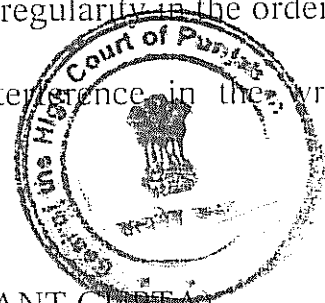
Dismissed.

 (HEMANT GUPTA)  
JUDGE

 (A.N. JINDAL)  
JUDGE

28.3.2012  
preeti

  
16-3-12





D.P. No. 18/4/12

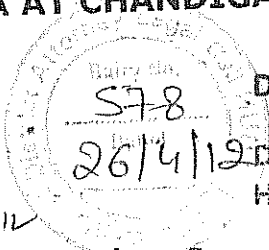
W-10

guy

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

To,

*Handwritten notes:*  
25/4/12 RK(SR) 26/04/12  
1 Put up  
On 11/4  
in Sec 6  
Bhow



Diary No. 10608

Date 25/4/12  
HUDA, HQ, Panchkula.

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

SUBJECT :- CIVIL WRIT, PETITION No. 10171 of July.

*Smt. Kasturi Devi*

...Petitioner(s)

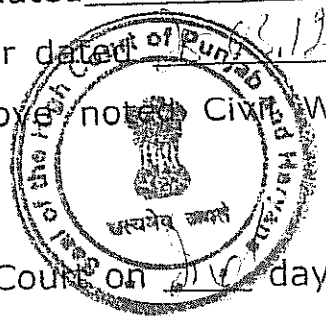
*State of Haryana and a/c*

Versus

...Respondent(s)

Sir,

In the continuation of this Court's order dated 5/10/11, I am directed to forward herewith a copy of order dated 23.12 passed by this Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance.



Given under my hand and the seal of this Court on 20 day of April, 2012.

BY ORDER OF THE PUNJAB AND HARYANA HIGH COURT, CHANDIGARH.

Superintendent(WRITS)  
for Assistant Registrar (WRITS)

*Handwritten signature*

gms

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

C.W.P. No. 1071 of 2011

Smt. Kasturi Devi wife of Mr. Mukesh Kumar R/o  
village Beansa Tib Mansa Devi Road ,Panchkula  
Legal Representative of Sh. Tejinder Singh  
(Deceased).

.... Petitioner.

Versus

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

.... Respondents.

CIVIL WRIT PETITION UNDER ARTICLES  
226/227 OF THE CONSTITUTION OF  
INDIA FOR ISSUANCE OF A WRIT IN

246  
/0

THE NATURE OF CERTIORARI FOR QUASHING THE IMPUNGED ORDER DATED 10.05.2011 (Annexure P-9) PASSED BY THE RESPONDENT NO.1 WHEREBY THE REVISION PETITION FILED BY THE ALLOTTEE (DECEASED) AGAINST THE ORDER OF THE LD. ADMINISTRATOR, HARYANA URBAN DEVELOPMENT AUTHORITY, PANCHKULA IE. (Respondent no.3) DATED 26.7.2005 i.e. (Annexure P-4) WAS DISMISSED AND THE RESUMPTION ORDER DATED 29.4.2003 i.e. (Annexure P-2) PASSED BY THE ESTATE OFFICER, HARYANA URBAN DEVELOPMENT AUTHORITY, PANCHKULA i.e. (RESPONDENT NO.4) WAS CONFIRMED.

AND

FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS FOR DIRECTING THE RESPONDENTS TO RESTORE BACK THE BUILT UP BOOTH IN QUESTION IN THE NAME OF THE LR OF THE ALLOTTEE (DECEASED) SMT. KASTURI

11/9/07

DEVI KEEPING IN VIEW THE FACT THAT  
 THE PETITIONER HAS ALREADY  
 DEPOSITED THE ENTIRE BALANCE  
 TENTATIVE PRICE OF THE BOOTH IN  
 QUESTION IN THE YEAR 2006 DURING  
 THE PENDENCY OF REVISION PETITION  
 BEFORE THE RESPONDENT NO 1 AND THE  
 SAME WAS DULY ACCEPTED BY THE  
 RESPONDENT OFFICE No 4 AND FURTHER  
 IN VIEW OF THE JUDGEMENT OF  
 HON'BLE SUPREME COURT OF INDIA IN  
 JASBIR SINGH BAKSHI VERSUS UNION  
 TERRITORY ,CHANDIGARH REPORTED AS  
 2004 (3) PLR PAGE 20 AND M/S GAGAN  
 FOODS PROCESSORS (P) LTD VERSUS  
 UNION TERRITORY,CHANDIGARH AND  
 OTHERS REPORTED AS 2003(2) R.C.R  
 (CIVIL) 645 AND JUDGEMENT PASSED  
 BY OUR HON'BLE COURT IN M/S G.K  
 .AUTO ENGINEERS VERSUS STATE OF  
 PUNJAB AND OTHERS REPORTED AS  
 2005(3) PLR 62 IN THE INTEREST OF  
 JUSTICE .

OR

gus

ANY OTHER WRIT, ORDER OR DIRECTION  
WHICH THIS HON'BLE COURT DEEMS FIT  
AND PROPER IN THE FACTS AND  
CIRCUMSTANCES OF THIS CASE MAY  
ALSO BE ISSUED.

Respectfully Showeth:-

1. That the Petitioner is a resident of Haryana state and being a citizen of India is entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court.

2. That the facts postulating the filing of the present writ petition are summed up hereunder:-

a) That the respondent No.4 on free hold basis invited the applications for commercial Built Up booths in Sector-4, MDC Panchkula and in pursuance to the same the allottee (deceased) was allotted one commercial booth bearing No 205, Sector-4- MDC, Panchkula and the tentative cost of the Built Up Booth was Rs.-2,79,000/-.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Date of Decision: 28.3.2012  
CWP No. 10171 of 2011

Smt. Kasturi Devi ...Petitioner

Versus

The State of Haryana and ors ...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE A.N.JINDAL**

Present: Mr. Sanjeev Sharma, Sr. Advocate with  
Mr. Gaurav Bakshi, Advocate for the petitioner.

Mr. S.S. Pattar, Sr. DAG, Haryana for respondent No. 1.

Mr. Siddharth Batra, Advocate for respondents No. 2 to 4.

**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.

Petitioner was served with a show cause notices under Sections 17(1), 17(2), 17(3), 17 (4) of the Haryana Urban Development Authority

PUNJAB AND HARYANA HIGH COURT

guk

258

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.

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).

Learned counsel for the petitioner relies upon a Division Bench judgment of this Court reported as Anil Kumar vs. 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.

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

PUNJAB AND HARYANA HIGH COURT

951


permission after resumption of the plot is unauthorized and cannot confer any equitable right in favour of the petitioner.

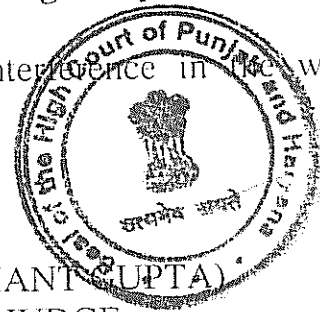
The counterfoil of deposit of the amount of Rs. 41580/- by Tejinder Singh on 29.4.2000, a photocopy of which was produced in Court, shows that it is signed by Tejinder Singh in urdu whereas the Will relied upon by the petitioner bears the thumb impression of the deceased Tejinder Singh. Without commenting 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.


In 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.

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.

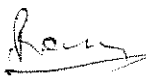
Dismissed.

 (HEMANT GUPTA)  
JUDGE



 (A.N. JINDAL)  
JUDGE

28.3.2012  
preeti

  
16.4.12

PUNJAB AND HARYANA HIGH COURT