

Status **Dismissed**

DP No.-

72672

1325  
31/5/16

W-10

CA-56546  
26/16

194

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

To,

1. State of Haryana, through Principal Secretary to Town & Country Planning, Govt. of Haryana, Civil Secretariat, Chandigarh.
2. Haryana Urban Development Authority through its Chief Administrator, Sector 6, Panchkula.
3. The Administrator, Haryana Urban Development Authority, Panchkula.
4. The Estate Officer, Haryana Urban Development Authority, Panchkula.

Subject:- CWP No. 16042 of 2015  
Malkiat Singh

Petitioner(s)

1-6-16  
ACSTCP

Versus

State of Haryana and others

Respondent(s)

CAHAWA  
2-6-16

Sir,

In continuation of this Court's order dated 24-08-15 I am directed to forward herewith a copy of Order dated 12.05.2016 passed by this Hon'ble High Court in the above noted Civil Writ Petition for immediate strict compliance.

DA  
8/6/16

Given under my hand and the seal of this Court on this 23<sup>rd</sup> Day of May 2016.

ADA (my)

BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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R/6  
Rn(DL)

Superintendent (Writ)  
for Assistant Registrar (Writs)

23/5/16  
23/5/16



O/o ACSTCP

Diary No. 28907

Dated 21/6/16

**IN THE HON'BLE HIGH COURT FOR THE STATES OF  
PUNJAB & HARYANA AT CHANDIGARH**

Civil Writ Petition No. 16042 of 2015

Malkiat Singh son of Sh. Gurbachan Singh, resident of #  
590, Village Burail, U.T. Chandigarh.

.....Petitioner

Versus

1. State of Haryana, through Principal Secretary to  
Town & Country Planning, Govt. of Haryana, CIVIL SECRETARIA  
Chandigarh. L.
2. Haryana Urban Development Authority through its  
Chief Administrator, Sector-6, Panchkula.
3. The Administrator, Haryana Urban Development  
Authority, Panchkula.
4. The Estate Officer, Haryana Urban Development  
Authority, Panchkula.

.....Respondents

Civil Writ Petition Under Articles 226/227 of Constitution of India for issuance of a Writ in the nature of certiorari for setting aside the impugned order dated 30.09.2014 (**Annexure P-12**) passed by Principal Secretary to Govt. of Haryana, Town & Country Planning and Urban Estates Departments, whereby the revision petition filed by the petitioner against the order dated 17.06.2008 has been dismissed.

AND

Further writ in the nature of certiorari for setting aside the order dated 17.06.2008 (**Annexure P-10**) passed by the Administrator, HUDA, Panchkula exercising the powers of Chief Administrator, HUDA, Panchkula, as appellate authority, whereby the appeal filed by the petitioner against the exparte resumption order dated 13.12.2002 has been dismissed.

AND

Further writ in the nature of certiorari for setting aside the resumption order dated 13.12.2002 vide which the Ld. Estate Officer resumed the Kiosk No.167, Sector-4, MDC, Panchkula and forfeited 10% of the consideration money and interest and other dues to the authority.

AND

any other relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be awarded.

**RESPECTFULLY SHOWETH:-**

1. That the petitioner is the resident of above mentioned address and being the residents of India, is entitled to invoke the extraordinary writ jurisdiction of this Hon'ble High Court.
2. That the brief facts of the case are as under:-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.16042 of 2015  
Date of Decision: 12.5.2016

Malkit Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

**CORAM: Hon'ble Mr. Justice S.J.Vazifdar, Acting Chief Justice  
Hon'ble Mr. Justice Arun Palli**

Present : Mr. Namit Gautam, Advocate for the petitioner.  
Mr. R.K.S. Brar, Addl. AG Haryana.  
Mr. Deepak Sabharwal, Advocate for respondents No.2 to 4.

**S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral)**

The petitioner has challenged the resumption order and the orders of the Appellate and Revisional Authorities confirming the same.

The petitioner was allotted a shop pursuant to the scheme floated by the respondents for rehabilitation of the shop keepers of Mansa Devi Temple Complex.

The petitioner was allotted a shop on 3.4.2000. By 2.5.2000, he paid 25% of the amount due under the letter of allotment. He, however, admittedly failed to pay the balance amount, despite the fact that he was put in possession of a shop on 13.5.2000.

In view thereof, the respondents issued a notice under Section 17(1) of Haryana Urban Development Act (for short 'the Act') on 23.8.2001. Thereafter notices under Sub Sections 17(2), 17(3) and 17(4) of the Act

were also issued.

Ultimately, by an order dated 31.12.2002, the respondents passed the order resuming the shop.

The petitioner filed an appeal under Section 17(7) of the Act only about 3 years later on 9.11.2005. The appeal was dismissed as was the revision filed by the petitioner.

In the meantime, the petitioner deposited an amount of Rs.1,25,000/- and Rs.30,600/- on 16.1.2006/6.6.2006. These deposits were made by the petitioner unilaterally and without the knowledge and consent of the respondents.

Ultimately, the respondents issued a notice of eviction under Section 18(1) (b) of the HUDA Act on 10.9.2007. The petitioner's appeal was dismissed on 17.6.2008 and the revision petition was dismissed on 22.7.2008.

The petitioner filed Civil Suit No.122 of 2008 for a declaration challenging the order of resumption and the order of the Appellate Authority. The suit was dismissed and the findings on merits were against the petitioner. His appeal was also dismissed. However, the suit was also dismissed on the ground of maintainability. We will presume that in view thereof, this petition is maintainable.

Respondent No.4 vide letter No.3018 dated 8.3.2013 refunded the amount of Rs.1,64,138/- by a cheque. The petitioner, however, refused the offer.

The first contention is that the petitioner did not make payment on account of encroachers in the complex which adversely affected his

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CWP No.16042 of 2015

-3-

business. The terms and conditions did not absolve him of the liability to make payment of the installment as per the letter of allotment.

It was then contended that the notice under Section 17 had not been received by the petitioner. However, as admitted by the petitioner in the evidence tendered in the civil suit, the notices were addressed to the petitioner at the address notified. If the petitioner was infact residing at another place, the respondent cannot be faulted. Further possession of the premises had already been taken on 13.8.2013 and has now been allotted to a third party. Third party is not before us.

The petitioner states that in similar matters, the Administrator has recalled the order of resumption on an application made before him.

Mr.Deepak Sabharwal, Advocate, appearing on behalf of the respondents denies the same.

We do not express any opinion in that regard. The petitioner is at liberty to make an application. The petition, is therefore, dismissed.

*sd* ( S.J.Vazifdar )  
Acting Chief Justice

*sd* ( Arun Palli )  
Judge

12.5.2016

Meenu

*sd*  
25/5/16

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May De me*

*23/5/16*

*23-5-16*



PUNJAB AND HARYANA HIGH COURT