

# SUPREME COURT OF INDIA

Punjab Urban Planning & Dev.

Vs.

Gurmail Singh & Ors.

S.L.P(Civil) No. 2426 of 2007

(R.V.Raveendran and P.Sathasivam,JJ.)

27.03.2008

## JUDGMENT

### **R.V.Raveendran, J.**

1. The petitioner (Punjab Urban Planning & Development Authority 'PUPDA' for short) allotted Site No.SCF 83 in Mohali in favour of the respondents, on acceptance of their bid of Rs.15,10,000/- for the said site at an auction held on 10th August, 1994. The letter of allotment dated 29.5.1995 took note of payment of Rs.3,77,500/- (payment of 25% of the price) and permitted the respondents to pay the balance of Rs.1132500/- towards price and Rs.283125/- towards interest upto 10.8.1998 at 10% per annum, in four equated installments on 10.8.1995, 10.8.1996, 10.8.1997 and 10.8.1998. The letter of allotment required PUPDA to deliver the possession of the site to the allottee within three months.

2. The Estate Officer of PUPDA made an order dated 21.7.1997 resuming the site on the ground that the respondents had failed to pay the installments. The respondents challenged the order of resumption before the Appellate Authority contending that they could not pay the installments, as PUPDA had not delivered possession of the site. To show their bona fides they sought the permission of the Appellate authority to deposit Rs.1415625/- being the balance of price and interest, in terms of the letter of allotment. On such permission being granted, the respondents deposited the said amount on 16.8.2001. The Appellate Authority by order dated 13.12.2001 set aside the resumption order and restored the allotment of the site in favor of the respondents and directed the Estate Officer to inform them about the amount of interest/penalty payable in respect of the delayed payments.

3. The respondents challenged the order of Appellate Authority in revision. The Revisional Authority by order dated 26.8.2003 held that the respondents were not liable to pay any interest/penalty for the period when possession was not delivered. He directed the Estate Officer to deliver the site to the respondent and reschedule the instalments from the date when possession was handed over. In pursuance of the said order, possession was delivered to the respondents on 6.1.2004. The said order was belatedly challenged by the PUPDA

before the High Court in the year 2006. The High Court has rejected the writ petition as having no merit.

4. Learned counsel for the petitioner submitted that the resumption order was quashed on a wrong assumption that the site in question was under some dispute with a Gurudwara and PUPDA was not in a position to deliver the site as per letter of allotment; that the dispute with the Gurudwara was sorted out prior to the auction sale and as on the date of the auction sale and the due date for delivery of possession, there was no pending dispute and no impediment for delivery and the non-delivery was only on account of respondents failing to take possession; and that long thereafter there was some encroachment which was solely on account of respondents not taking possession and committing breach; and that therefore there was no infirmity in the order for resumption.

5. We find no merit in the contention of the petitioner. The appellate authority had also set aside the cancellation of allotment and had directed restoration of the site to the respondents and that order was not challenged by PUPDA and attained finality. It was respondents who challenged the order of the appellate authority before the revisional authority, being aggrieved by the direction for payment of interest and penalty. We do not propose to interfere with the concurrent finding of the appellate authority, revisional authority and the High Court directing restoration of the site to the respondents.

6. Learned counsel for the petitioner next contended that the authority is entitled to interest at 10% P.A. and penalty from 11.8.1998 up to the date of payment. It was submitted that interest was paid only up to 10.9.1998 and interest for the balance period that is 11.8.1998 to 16.8.2001 (date of payment) was not paid. On the other hand learned counsel for the respondents submitted that the respondents had paid the full price as also Rs.2,83,125/- towards interest on 16.8.2001 itself, even though the possession of the site was delivered to them only on 6.1.2004; and that as per the order of the revisional authority, affirmed by the High Court, the respondents are not liable to pay interest or penalty for the period during which possession was not handed over to them, and as possession was delivered only on 6.1.2004 long after full payment on 16.8.2001, PUPDA was itself liable to refund the amount paid by Respondents towards the interest and also pay interest to respondents on the value of the site from 16.8.2001 to 6.1.2004. But the learned counsel for respondents submitted on instructions, that the respondents were not interested in seeking refund of any amount from PUPDA and were only interested in the long pending issue being closed.

7. In view of the above, it is unnecessary to examine the claim regarding interest. The petition is disposed of by recording the submission of the respondents that they will not press for refund of any part of amount paid towards interest or otherwise from PUPDA. It is needless to say that PUPDA shall convey the allotted site to the respondents on fulfillment of the required formalities. Parties to bear respective costs.