

decision of the special leave petition read as under:

"2. Your bid for built up booth No. 79 in Sector 9 at Faridabad has been accepted and the plot/building as detailed below has been allotted to you on free hold basis as per the following terms and conditions and subject to the provisions of the Haryana urban Development Authority Act, 1977 (hereinafter referred to as the Act) and the rules/regulations applicable thereunder and as amended from time to time including terms and conditions already notified at the time of auction and accepted by you.

Sect- or No.	Name Urban Area	of Plot No.	App. Dimension description	Area in Sq.	Price plot	of
			as notified at the item of auction	Yards		
9	Faridabad	Built up Booth No. 79	9'.9"33'.6"	36.29	11,50,000/-	

3. The sum of Rs.1,15,000/- deposited by you as bid money at the time of bid will be adjusted against the price of the plot.

4. You are requested to remit Rs. 1,72,500/- in order to make the 25% price of the said plot within 30 days from the date of issue of this letter. The payment shall be made by a Bank draft payable to the Estate Officer, HUDA Faridabad and drawn on any scheduled Bank at Faridabad in case of failure to deposit the said amount within the above specified period, the allotment shall be cancelled and the deposited of 10% bid money deposited at the time of

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bid shall stand forfeited to the authority, against which you shall have no claim for damages.

5. The balance amount i.e. Rs.8,62,500/- of the above price of the plot/building can be paid in lump-sum without interest within 60 days from the date of issue of the allotment letter in 10 half yearly instalments. The first instalment will fall due after the expiry of six months of the date of issue of this letter. Each instalment would be recoverable together with interest on the balance price at 15% interest on the remaining amount. The interest shall however accrue from the date of offer of possession."

The petitioner had deposited Rs.1,15,000/- as bid money. After acceptance of his bid by the competent authority and issue of Memo dated 14.10.1997, he deposited Rs.1,72,500/- and got possession of the booth.

Due to non-payment of the instalments of price, the Estate Officer issued notices dated 28.9.1998, 5.11.1998,

8.10.1999 and 17.2.2000 under different sub-sections of Section 17 of the Haryana Urban Development Authority Act, 1977 (for short, 'the Act') and called upon the petitioner to pay the instalments of price with interest and penalty but the latter did not pay the outstanding dues. Finally, the Estate Officer passed order dated 12.02.2001 under Section 17(4) whereby he resumed the booth and forfeited 10% of the price already paid. The appeal preferred by the petitioner was dismissed by Administrator, HUDA, Faridabad vide order dated 24.4.2001. The concluding paragraph of that order reads as under:

"I have heard both the parties on 10.4.2001 and gone through the record carefully. From the perusal of record, it is revealed that the said booth was allotted on 14.10.97. From the

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record, it appears that all the notices u/s 17(1), (2), (3) and (4) of HUDA Act, 1977 were issued to the appellant for making the notices. During the hearing, the appellant has still not shown willingness to pay all the dues. There is no merit in the appeal. Hence the appeal is hereby dismissed."

The petitioner challenged the resumption of booth by filing a suit filed for declaration and permanent injunction. The same was dismissed by Civil Judge (Junior Division), Faridabad vide judgment dated 25.8.2006. The first and the second appeals filed by the petitioner were dismissed by Additional District Judge, Faridabad and the learned Single Judge of the High Court respectively. Thereafter, the petitioner filed Writ Petition No. 22784 of 2010 questioning the order of resumption passed by the Estate Officer, but could not persuade the learned Single Judge to entertain his prayer and the writ petition was dismissed on 21.12.2010.

Learned counsel for the petitioner relied upon order dated 15.9.2011 passed in Civil Appeal No. 7890 of 2011 - Green S. Jacob and another v. HUDA and another and the fact that Administrator, HUDA had passed several orders in recent

past and restored the booths allotted to different persons, which were resumed by the Estate Officer on account of non-payment of the instalments of price.

Learned counsel also submitted that with a view to save the allotment, the petitioner is prepared to pay the outstanding dues with interest and penalty as was done by the appellant in C.A.

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No. 7890 of 2011.

We have considered the submissions of the learned counsel but have not felt impressed. Rather, we are convinced that a person like the petitioner, who had taken possession of the commercial property by paying only 25% of the price and did not pay a single penny towards the balance price is not entitled to complain against the resumption of booth, which was ordered by the Estate Officer after following the procedure prescribed under Section 17 and giving full opportunity to him to pay the balance price with interest and penalty. While deciding the appeal, the Administrator had noted that even at that stage, the petitioner was not prepared to pay the balance price. Not only this, during the pendency of the suit, the first appeal and the second appeal, the petitioner did not show his inclination to pay the amount in terms of the demand created by the competent authority of HUDA. Therefore, there is no valid ground to interfere with the concurrent finding recorded by the trial Court and the lower appellate Court that the petitioner had violated the terms and conditions of allotment, which prompted the Estate Officer to pass order for resumption of the booth and forfeiture of 10% of the price already paid.

The order passed in C.A. No. 7890 of 2011 cannot be relied upon for setting aside the well reasoned judgments of the Courts below as also the impugned judgment. In that case, the suit filed by the appellant was decreed by the

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trial Court. The lower appellate Court reversed the judgment and decree of the trial Court and the second appeal filed by the appellant was dismissed by the High Court. Against this, in the present case, the suit was dismissed by the trial Court, the lower appellate Court and the High Court. Another distinguishing feature of that case was that the appellant had expressed his willingness to pay the amount claimed by the HUDA. This Court noted that in other cases, the order of resumption had been set aside on payment of the balance price together with interest and penalty and held that there was no justification to deny relief to the appellants. At the same time, the Court observed that the decision taken by it should not be treated as a precedent. The orders passed by the Administrator on which reliance has been placed by the petitioner cannot be made basis for granting relief to him. Those orders were passed by the same officer within a short span of four months. What is most surprising is that the concerned officer did not even bother to take note of the fact that in majority of cases, the appeals had been filed by the allottees through their General Power of Attorney. We can take judicial notice of the fact that in large number of such cases the property dealers pay certain amount to the allottees, get the power of attorney executed in their names and the involve HUDA and other similar authorities with the hope that they may succeed in persuading the higher administrative authorities to give relief to them. In our

considered view, such orders cannot be made basis for recording a finding that the petitioner has been subjected to discrimination and the concurrent finding recorded by two judicial forums cannot be set at naught only on the ground

that some Administrative Officer has passed unusual orders for restoration of the plots, which had been resumed by the competent authority after complying with the statutory procedure and the rules of natural justice.

We have also considered the explanation given by the petitioner for delayed filing of the special leave petition and find the same to be wholly unsatisfactory.

With the above observations, the special leave petition is dismissed on the ground of delay and also on merits.

Estate Officer, HUDA, Faridabad is directed to immediately take possession of the built up booth in question, which shall, thereafter, be disposed of in accordance with the provisions of the Act, the Haryana Urban Development Authority (Disposal of Land and Buildings) Regulations, 1978 and other relevant statutory provisions.

The Registry is directed to forward copies of this order to Chairman, Haryana Urban Development Authority, Panchkula and Estate Officer, Haryana Urban Development Authority, Faridabad.

(Parveen Kr. Chawla)
Court Master

(Phoolan Wati Arora)
Court Master