

KASHMIR CHAND

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v.

FINANCIAL COMMISSIONER, HARYANA AND ORS.

JULY 15, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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*Auction sale—Payment—Default—Cancellation of allotment for—Appellant purchase plot in auction—Only part of sale price paid for—Default for more than 21 years in respect of balance amount—Cancellation of allotment—Writ—Dismissal by High Court—Appeal—Statement by purchaser's counsel that two instalments with interest paid and one remains due—Acceptance of statement of counsel—Purchaser given liberty to pay the balance amount within 4 months—In case of default High Court order to be restored.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9753 of 1996.

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From the Judgment and Order dated 19.8.93 of the Punjab & Haryana High Court in L.P.A. No. 355 of 1993.

K.B. Rohtagi and Ms. Aprana Rohtagi for the Appellant.

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R. Bana for the Respondents.

The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel on both sides.

Admittedly, the plot was sold in an open auction held in July, 1971 for a sum of Rs. 46,000. The appellant has paid only Rs. 11,500. He was due of the balance sum of Rs. 34,500. In terms of the auction, he had not complied with the payment for well over 21 years. Consequently, he was demanded payment of a sum of Rs. 3,78,000 which he defaulted to pay. When allotment was sought to be cancelled he calling that action in question, filed a writ petition to the High Court. Pending writ petition, the High Court passed an order in a civil miscellaneous case. Therein the appellant had asserted that he had deposited the sum of Rs. 34,500, on

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- A September 21, 1992. The Court found that in case the said amount of Rs. 34,500 was deposited, as contended by the appellant, the balance amount of Rs. 3,43,500 was directed to be deposited but he had not done. Consequently, the writ petition was dismissed and an appeal in the impugned order in MPA No. 355/93 dated 19th August, 1993, the order of the learned single Judge was confirmed.

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Though time was taken for filing the counter, the same was not filed by the respondents. It is stated by Shri K.B. Rohtagi, learned counsel for the appellant, that his client had already deposited two instalments of the amount with interest @ 12% and one instalment is due. We *Prima facie* accept the statement of the counsel to be correct. In case those payments have already been made, the appellant is given liberty to pay the balance amount within a period of 4 months from today. In case he has not already deposited or if he commits default in payment of the amount as directed, this order would stand vacated and the order of the High Court would stand restored.

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The appeal is accordingly disposed of. No costs.

T.N.A.

Appeal disposed of.