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JOG RAM

v.

STATE OF HARYANA AND ORS.

JULY 25, 1996

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

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*Auction sale—Resale after confirmation of sale—Validity of—Evacuee property—Distribution to people—Auction sale by Government—Land sold to respondent-5 in auction—Sale confirmed in his favour—Subsequently appellant filed application for allotment of land—Land sold to appellant also and conveyed to him by registered sale deed—Order cancelling land sold to appellant on the ground that it was already sold to 5th respondent and the same cannot be resold to the appellant—Writ challenging cancellation of sale—Dismissal by High Court—Appeal—Held confirmation of sale conferred certain rights on the 5th respondent—Unless the sale was duly set aside, the sale held and concluded in favour of respondent-5 could not be put to resale and sold to the appellant—Cancellation of sale was not vitiated by any error of law—Held no interference was warranted.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1474 of

1981.

From the Judgment and Order dated 4.10.79 of the Punjab & Haryana High Court in C.W.P. No. 4953 of 1974.

Rajiv Nanda, T. Sridharan and Tufail A. Khan for the Appellants.

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S.M. Ashri for the Respondents.

Prem Malhotra for State.

The following Order of the Court was delivered :

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The appellant appears to have come into possession of 30 bighas, 13 biswas of land. Subsequently, the evacuee property vested in the Government of India was taken over by the State Government for distribution to the people according to the procedure prescribed by the Government of Punjab. It would appear that in 1962, applications were invited for allotment of the land as per that procedure and the appellant had not applied

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for allotment. In 1967, the land came to be sold to the people at an auction. Respondent No. 5 - Fateh Singh - appears to have become the highest bidder for a sum of Rs. 3,800 and the sale was duly confirmed. Subsequently, time was extended to the persons to make applications and the last date was February 22, 1968. Thereunder, the appellant came to make an application dated January 5, 1968 for confirmation of sale of land in his favour by a sale. The competent officer sold the land to the appellant and conveyed it by registered sale deed dated June 26, 1968. That sale came to be cancelled by order dated February 5, 1974 passed by the second respondent on the ground that the land was already sold to the 5th respondent on February 27, 1967 and hence the same could not be resold to the appellant under the aforesaid sale deed. Therefore, it is not valid order. Calling that cancellation in question, the appellant came to file the writ petition in the High Court. In Writ Petition No. 4953 the Division Bench by order dated October 4, 1979 dismissed the petition. Thus, this appeal.

The learned counsel for the appellant contended that though the respondent was the highest bidder, he had not deposited the full consideration of the bid amount; there was no sale certificate issued to him and thereby the 5th respondent could not become the owner of the property to the extent of 13 bighas 13 biswas which was sold in the auction to him. The Division Bench was not right in holding that the appellant was not entitled to the sale on the ground that it was already put to auction in favour of the 5th respondent. When we pointedly asked the learned counsel for the appellant for the order of confirmation of sale of land dated February 27, 1967, in fairness, the learned counsel has stated that the said order was not made part of the record. The confirmation of the sale conferred certain rights on the 5th respondent. Unless the sale was duly set aside, the sale property held and concluded could not be put to resale and sold to the appellant on June 26, 1968. As a consequence the cancellation of the sale by order dated February 5, 1974 cannot be said to be vitiated by any error of law warranting interference.

The appeal is accordingly dismissed. No costs.

T.N.A.

Appeal dismissed.