



111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: 19.05.2025
Pronounced on: 02.06.2025

1. ESA-11-2018 (O&M)

Ms. Shobha Verma ...Appellant

Vs.

Smt. Hardeep Kaur and others ...Respondents

2. ESA-12-2018 (O&M)

Sudhir Kumar ...Appellant

Vs.

Smt. Hardeep Kaur and others ...Respondents

3. ESA-13-2018 (O&M)

Jaspal Singh ...Appellant

Vs.

Smt. Hardeep Kaur and others ...Respondents

4. ESA-14-2018 (O&M)

Varun Gupta ...Appellant

Vs.

Smt. Hardeep Kaur and others ...Respondents

5. ESA-15-2018 (O&M)

Smt. Meghawanti ...Appellant

Vs.

Smt. Hardeep Kaur and others ...Respondents



CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Tara Dutt, Advocate
Mr. Paras, Advocate for the appellant(s).
in ESA-11, 12, 14 and 15 of 2018.

Mr. D.S. Patwalia, Sr. Advocate with
Mr. Gaurav Rana, Advocate
for the appellants in ESA-13-2018 and
for respondents No. 1 to 4
in ESA-11, 12, 14 and 15 of 2018.

Ms. Kavita Arora, Advocate
for respondents No. 5 and 6.

ANIL KSHETARPAL, J.

I. Brief facts:-

1. With the consent of learned counsel representing the parties, as many as five Execution Second Appeals, namely, ESA-11-2018, ESA-12-2018, ESA-13-2018, ESA-14-2018 and ESA-15-2018 involving identical question, shall stand disposed of by this common order.

2. In order to comprehend the issue involved in this batch of appeals, relevant facts, in brief, are required to be noticed.

3. The Ludhiana Improvement Trust (Judgement Debtor) (hereinafter referred to as 'LIT') has been established under the Punjab Town Improvement Act, 1922. The aforesaid Act confers the powers of acquisition of land/buildings for planned development of the town. Certain parcels of land belonging to Sh. Nasib Singh (Deceased) predecessor-in-interest of respondents No. 7 to 11 was acquired in the year 1972. Ultimately, the market



value of the acquired land was assessed by the Land Acquisition Tribunal, Ludhiana by Award passed on 23.04.1986 @ Rs.58,06,444/-. On account of failure of the Trust to pay the amount, the execution petition was filed, in which, as many as 41 Booths were sold in a Court auction held on 14.09.1992 to recover the amount, which was confirmed on 01.09.1993 while dismissing application filed under Order XXI Rule 90 of the Code of Civil Procedure, 1908 seeking setting aside the Auction. This order became final because the appeal, revision petition as well as Special Leave Petition filed by Judgment Debtor were dismissed.

4. There is another set of important facts which are required to be kept in consideration. As many as 05 booths were sold in auction by LIT. A flow chart of the date of auction and subsequent sales is extracted as under:-

Sr. No.	Particulars	Auction Purchaser	Date of Auction	Date of confirmation
1.	Booth No. 32	Sh. Surinder Singh for Rs.20,450/-	10.08.1979	27.08.1979
2.	Booth No. 13	Sh. Rulda Ram Gupta for Rs.1,06,000/-.	04.09.1989	24.05.1990
3.	Booth No. 33	Sh. Gurcharan Singh for Rs. 20,200/-.	10.08.1979	27.08.1979
4.	Booth No. 27	Sh. Mohan Lal for Rs.1,20,000/-.	02.02.1990	27.08.1979
5.	Booth No. 24	Smt. Meghawanti for Rs. 83,000/-.	02.02.1990	15.03.1990

5. When the auction purchasers (decree-holders) went to take possession pursuant to the warrants of possession issued by the Executing Court, these 05 booths were found in possession of the appellants, who filed



objections, which were allowed but reversed by the First Appellate Court resulting in filing of these 05 appeals.

II. Reasons recorded by the First Appellate Court:-

6. The First Appellate Court has recorded the following reasons:-

- I. Sale deed in favour of the objectors was executed by the LIT (Judgment Debtor) after the property was sold in the Court Auction on 15.06.1992, hence, the trial Court could not pass title of the property in favour of the appellants or their predecessor-in-interest.
- II. The appellants have failed to produce and prove the resolution of the LIT to sell the property by Auction in favour of the appellants or their predecessors.
- III. Rule 94 of the Ludhiana Town Improvement Trust Rules, 1939 provides that every contract is required to be entered into by the Chairman after previous approval of the Trust, which has not been proved.

III. Analysis and Discussion:-

7. This court has heard the learned counsel representing the parties at length and has perused the paper-book.

8. As is evident from the flow chart, the Booth No. 32 was purchased by Sh. Surinder Singh in an auction held on 10.08.1979. On 27.08.1979, auction of the Booth No. 32 was confirmed but the allotment letter was issued on 14.03.1986 resulting in delivery of possession on receipt of 1/4th of the sale



consideration. Sale deed in favour of Sh. Surinder Singh was executed on 24.05.2000 who in turn sold the same to the appellant- Ms. Shobha Verma on 21.06.2000. Similarly, Sh. Rulda Ram Gupta purchased Booth No. 13 on being declared the highest bidder in auction held on 04.09.1989. Allotment letter of Booth No. 13 was issued in his favour on 24.05.1990 and possession was delivered on receiving 1/4th sale consideration. LIT has executed the sale deed on 13.09.2005. Booth No. 24 was purchased by Smt. Meghawanti on 02.02.1990 in a public auction, which was confirmed on 15.03.1990, whereas, the allotment letter was issued on 24.05.1990. Exactly, similar is the position of Sh. Mohan Lal, Booth No. 27. Sh. Gurcharan Singh was declared the highest bidder of Booth No. 33 on 10.08.1979, which was confirmed on 27.08.1979 vide resolution No.52, whereas, the allotment letter was issued on 14.03.1986. Thus, it is evident that LIT sold these 05 booths in a public auction much before the property was attached. In fact, all the Booths were sold through public auction before filing of the execution petition on 03.07.1991. In exercise of powers conferred by the Punjab Town Improvement Act, 1922, the Town Improvement Trust Rules, 1939 were notified. Rule 94 of the Ludhiana Town Improvement Trust Rules, 1939 (hereinafter referred to as '1939 Rules') reads as under:-

- 1. The Chairman may, on behalf of the Trust enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind if such contract or agreement were on his own behalf, and every such contract or agreement shall be reported to the Trust at the next ordinary meeting thereof.*



2. Every other contract and agreement on behalf of the Trust shall require the previous approval of the Trust, and shall be signed by the Chairman and sealed with common seal of the Trust as hereinafter provided. No contract or agreement referred to in this sub-rule, unless executed as herein provided, shall be binding on the Trust.

3. The common seal of the Trust shall not be affixed to any contract or other instrument except in the presence of the Chairman, who shall attach his signature to the contract of instrument in token that the same was sealed in his presence.

9. In the year, 1983, the Punjab Government notified The Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983 (hereinafter referred to as '1983 Rules'). Rule 8 enables the Trust to sell the commercial plots by public auction. Booth Nos. 13, 24 and 27 were auctioned under 1983 Rules, whereas, auction of Booth Nos. 32 and 33 was held under 1939 Rules. Purchase of booths in a public auction creates a right in favour of the auction purchaser with respect to the property. Sale of property by public auction cannot be equated with a mere agreement to sell. Cancellation of allotment is possible only in accordance with the provisions of the Act and the Rules. Unless the public auction is revoked or the allotment is cancelled for violation of the terms of the allotment letter or the Rules, the auction purchaser is the owner for all the intents and purposes subject to payment of remaining payment in installments. Hence, the First Appellate Court has erred in observing that the Judgment Debtor, LIT was no longer owner of the property. The sale in favour of auction purchaser relates to the date of auction even if the actual sale deed is executed after a long time.



10. Similarly, the First Appellate Court has also erred in observing that the appellants have failed to prove resolution of LIT authorizing its official to sell the property. It would be noted here that the Execution Court culled out the following issues-

1. *Whether in view of objections filed under Order XXI Rule 95 CPC etc. qua shop no. 32, warrants of possession needs to be recalled/cancelled in the light of objections detailed in the objection petition, if so its effect? OP Objector*
2. *Whether respective objections are not maintainable? OP Auction Purchaser*
3. *Relief.*

11. In fact, this was not subject matter of issue before the Court. Moreover, when official of the Trust appeared for evidence, he was never called upon to produce the resolution of the Trust.

12. Similarly, the next reason assigned by the First Appellate Court is erroneous. The First Appellate Court has erred while observing that the sale of booths in favour of the appellants was illegal because they have failed to prove the resolution of the LIT. At the cost of repetition, this was not the subject matter of issue before the Execution Court.

13. Pursuant to the Award passed by the Land Acquisition Collector, the property was auctioned on 14.09.1992 without realizing that the property had already been sold by public auction by the LIT (Judgment Debtor), and as such, it was no longer the owner of the property.



14. Learned counsel representing the respondents submitted that a direction is required to be issued to the LIT to allot alternative booth to the decree-holders.

IV Decision:-

15. In the opinion of this Court, it would not be appropriate to issue any such direction, however, it shall be open to the respondent to continue with the execution petition.

16. With these observations, all the five appeals are allowed.

17. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

02.06.2025

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Whether speaking/reasoned : Yes No

Whether Reportable : Yes No