

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP No.16376 of 1994

Date of Decision: 11.08.2015

Jatinder Pal Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present: Mr. Tushar Sharma, Advocate, for the petitioner.

Ms. Palika Monga, DAG, Haryana, for respondent Nos.1 & 2.

Mr. C.B.Goel, Advocate, for respondent No.3.

HEMANT GUPTA, J.

The petitioner was owner of land measuring 1 Bigha 7 Biswas (1349 sq. yards) comprising in Khasra No.5421, Khewat No.2507, Khatauni No.5916, Karnal.

Karnal Improvement Trust (for short 'the Trust') framed development Scheme No.5 for establishment of New Sabzi Mandi in July, 1966. Later, while finalizing the lay out plan, it was found necessary that area adjoining the Scheme be also included in the Sabzi Mandi Scheme. The petitioner's land was adjoining to the land comprising in Scheme No.5. The Trust passed a resolution on 27.02.1974 resolving to acquire the land of the petitioner as well as the other adjoining land at the rate of Rs.37/- per sq. yard alongwith a promise to allot an alternative shop to the land-owner(s). Pursuant to such resolution, an agreement was executed between the petitioner and the Trust. A sale deed was also executed by the petitioner in

favour of the Trust on 03.12.1980. Even before the sale deed, the possession of the land owned by the petitioner was taken by the Trust in July, 1975, when an amount of Rs.5000/- was paid as earnest money, whereas the balance amount of Rs.44,913/- was paid on 03.12.1980 at the time of registration of the sale deed.

The petitioner has averred that he retired from the service of Haryana State Electricity Board on 01.10.1993 and intended to start business in the shop promised to be allotted by the Trust. The father of the petitioner had earlier made a representation on 03.11.1976 for payment of price alongwith interest and for allotment of alternative shop site. The petitioner also relies upon the representations made from time to time as well as letter dated 01.05.1990 addressed to the father of the petitioner by the Improvement Trust. Since the plot was not allotted to the petitioner, the petitioner invoked the writ jurisdiction of this Court.

In reply, the stand of respondent No.3 – Karnal Improvement Trust is that the petitioner has tried to over-reach this Court by attaching Annexures P-4, P-9 & P-14 to P-19 i.e. representations, which have never been submitted to the respondent-Trust. The petitioner has made false averments. It is averred that after negotiations, the land of the petitioner was purchased at the rate of Rs.37/- per sq. yard and that the respondent – Trust is the owner of land after its purchase. The petitioner has received the compensation and if the petitioner has any claim of non-payment of interest on the amount of sale consideration, he could well agitate the issue before the Civil Court. It was also averred that the petitioner is not a local displaced person, as per the Land Disposal Rules, 1976, as the land owned by the petitioner was never subject matter of acquisition. The petitioner did

not file any rejoinder to the written statement filed on behalf of respondent No.3 – Trust on 14.12.1995.

Learned counsel for the petitioner relies upon a Division Bench judgment of this Court in Sarabjit Singh & another Vs. State of Haryana & others 1999 (2) PLJ 372, wherein the writ petition arising out of the similar facts was allowed and the Trust was directed to make allotment of one shop measuring 4.5 mtrs. x 12 mtrs.

However, after hearing learned counsel for the parties, we find that the reliance of the learned counsel for the petitioner on Sarabjit Singh's case (supra) is not tenable. After the sale deed was executed by the petitioner in favour of the respondent – Trust on 03.12.1980, no step was taken by the petitioner whatsoever to assert his right of allotment of a shot site. In Sarabjit Singh's case (supra), the Bench has recorded a categorical finding that the petitioners were at no stage lax in pursuing their cause for allotment of sites in terms of the resolution dated 27.02.1974 and the sale deeds executed on 03.12.1980. It has been held to the following effect:

“7. From the above noted sequence of facts, it is clearly borne out that the petitioners were at no stage lax in pursuing their cause for allotment of sites in terms of the resolution dated 27.02.1974 and the sale deeds executed on 03.12.1980. Therefore, they cannot be held guilty of laches and denied relief on that ground.....”

However, in the present case, we find that the claim of the petitioner of having submitted representations has been denied by the respondent-Trust, which assertion has not been controverted. Therefore, keeping in view the uncontroverted stand, it stands established that the petitioner made no claim for allotment of a shop site after sale deed was executed till the filing of the writ petition in the year 1994.

In Sarabjit Singh's case (supra), the Bench has held that even if the land has been sold by the land-owner(s) to the Improvement Trust, still the land-owner(s) is entitled to a plot, as a local displaced person. However, the petitioner never applied for a shop site as a local displaced person. The petitioner remained silent for almost 14 years, as he invoked the writ jurisdiction of this Court only in the year 1994. We find that the long silence of the petitioner disentitles him for any concession for allotment of a shop in respect of the land, which came into possession of the Improvement Trust in 1975 for which sale deed was executed in the year 1980. We find that at this stage, when the land prices are sky-rocketing, it will be a wrongful loss to the State and undue enrichment to the petitioner if any direction for allotment of shop site is issued.

Consequently, we do not find any merit in the present writ petition. The same is dismissed.

(HEMANT GUPTA)
JUDGE

11.08.2015
Vimal

(SHEKHER DHAWAN)
JUDGE