

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.12784 of 1998 (O&M)
DATE OF DECISION: 07.09.2015

Balwant Singh

....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Alok Jain, Advocate for the petitioner
Mr. Deepak Balyan, Addl. Advocate General, Haryana
Mr. Dheeraj Chawla, Advocate for respondent No.5
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S.J. VAZIFDAR, ACTING CHIEF JUSTICE:

The petitioner seeks an order directing the respondents to allot in his favour a plot as an oustee.

2. The petitioner's land was admittedly acquired through separate acquisitions in the years 1978 and 1985. Compensation in respect thereof was paid. The petitioner claims that his entire land has been acquired and he is, therefore, entitled to allotment of a plot as an oustee under the various policies. The land was acquired for respondent No.5 - Haryana State Industrial & Infrastructure Development Corporation Limited (HSIIDC). The policies of the State Government and of the HSIIDC, relied upon by the petitioner, were, admittedly, introduced after the petitioner's land was acquired. One of the questions, therefore, is whether the petitioner is entitled to the benefit of the policies, although his land was acquired prior to the formulation of the policies.

3. It is not necessary for us to decide this matter on principle as it stands concluded in favour of the petitioner by virtue of a judgment of a Division Bench of this Court in *Haryana Urban Development Authority and others vs. Sandeep and others*, 2012 (1) LAR 475.

4. Policies dated 10.09.1987, 28.08.1988, 09.05.1990, 18.03.1992, 12.03.1993, 27.03.2000 and 28.04.2008 were framed by the Haryana Urban Development Authority (HUDA).

5. The State Government, however, formulated policies dated 07.12.2007 and 09.11.2010. The policies are referred to in paragraphs 18 and 20 of the judgment in *Haryana Urban Development Authority and others vs. Sandeep and others (supra)* which read as under:-

"18. All the aforesaid policies were framed and circulated by HUDA. For the first time, thereafter, the State Government notified Rehabilitation and Resettlement Policy on 07.12.2007, inter alia, contemplating allotment of plots by Haryana Urban Development Authority and Haryana State Industrial Infrastructure Development Corporation Limited. The relevant extract from Annexure 'A' appended with the policy reads as under:

"2. Allotment of plots by Haryana Urban Development Authority and Haryana State Industrial Infrastructure Development Corporation Limited.

(i) The allotment will be made to each co-sharer depending upon his share in the land acquired for Haryana Urban Development Authority and Haryana State Industrial Infrastructure Development Corporation Limited as per scale mentioned in the entitlement.

ii) Plots under this policy would be offered if the land proposed to be acquired is under the ownership of oustees on the date of publication under Section 4 of Land Acquisition Act and if 75% or more of the total land owned by the owner in that Urban Estate is acquired. Only one time benefit of this policy will be given to the land owner whose land is acquired in pocket at

different times. In case, the land owner becomes entitled for a bigger size plot due to subsequent acquisition of his land then differential of the plot already allotted to him shall be allowed to him.

(iii) This benefit will not be allowed to applicant whose land has been released and he will not make such request to the Government for release of his land.

(iv) No litigation should be pending except that of enhanced compensation in any Court.

(v) The maximum size of the plot to be allotted will be restricted to 350 sq. yards. Since livelihood of the farmers predominantly depends upon his agriculture income and shops, in order to provide the affected land owners/farmers a long term sustainable source of income, in addition to the residential plot, commercial sites, measuring 2.75 x 2.75 mtr. may be allotted in Haryana Urban Development Authority Sectors. Such allotment shall be made to each co-sharer provided his share exceeds 2.5 acres, otherwise all the co-sharers will be allotted a single site. Director, Town and Country Planning, Haryana will allow additional component of commercial use in the Sector if the booths are separately provided. In respect of Haryana State Industrial Infrastructure Development Corporation Ltd. mixed land use of residential and commercial will be allowed for which a detailed scheme shall be worked out by Haryana State Industrial Infrastructure Development Corporation Limited.

(vi) In case the land is acquired for purposes other than residential sectors, the plots as mentioned in para (v) above will be allotted in the residential sector to be developed next in that urban estate."

4. The policy for allotment of plots will be applicable only for lands acquired for Haryana Urban Development Authority and Haryana State Industrial Infrastructure Development Corporation Ltd.

5. This policy will be applicable with effect from 5th March, 2005 and cover all those cases of acquisition in which awards of compensation were announced on or after 5th March, 2005.

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20. Another R&R Policy has been notified by the State Government on 09.11.2010 which, inter alia, provided for

allotment of alternative plots. The relevant extract reads as under:

"3. Effective Date:

The revised floor rates, the policy of payment of 'No Litigation' incentive, and the revision in various parameters of the R&R Policy will be applicable to all such acquisition cases where awards have been announced on or after 7th September, 2010 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."

6. The second policy of the State Government dated 09.11.2010 does not have a clause similar to clause-5 of the first policy dated 07.12.2007. In any event, the Division Bench held as under:-

"Question No.7.- *Whether an oustee is entitled to an allotment of a plot in the next residential Sector even if the land is acquired for industrial, institutional or such like purposes irrespective of date of acquisition?*

51. A Division Bench of this Court in Smt. Suman Aneja's case (supra) has held that policies of rehabilitation are applicable irrespective of date of acquisition. The R & R policies are applicable even if the acquisition is for a purpose other than residential/commercial purposes as in such case, the entitlement of an oustee is for a plot in the residential sector in terms of the policy dated 27.03.2000. Therefore, even if land has been acquired for a purpose other than residential/commercial, an oustee is entitled to apply for a plot in the next residential sector even if acquisition is prior to the circular dated 27.03.2000. The entitlement of an oustee for a plot would be as per the existing policy at the time, when an oustee apply for a plot in response to public advertisement".

7. The observations in paragraph-51, which are an answer to question No.7 framed by the Division Bench, apply equally to the case before us. The petitioner would, therefore, be entitled to the benefit of the policies.

8. In the circumstances, the writ petition is disposed of by directing the respondents to consider the petitioner's case under the relevant policy. The issues of fact including whether the entire land of the petitioner was acquired or not are kept open.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

07.09.2015
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(TEJINDER SINGH DHINDSA)
JUDGE