

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-17581-2013

Date of decision : 25.05.2015

Mahavir

... Petitioner

Versus

State of Haryana and others

... Respondent

***CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL***

Present: Mr.Ashok Tyagi, Advocate
for the petitioner.

Mr. Rajesh Malik, Advocate
for respondents No.2 & 3.

REKHA MITTAL, J.

The petitioner prays for issuance of writ of certiorari, quashing order dated 30.08.2011 whereby claim of the petitioner for allotment of a plot as an oustee has been rejected.

The factual matrix of the case is that the petitioner was owner of land measuring 4 marla in the revenue estate Pataudi, District Gurgaon. The land was acquired for utilization as residential, commercial and institutional on 06.01.2004. The respondents invited applications from the owners whose land had been acquired by way of a public notice in 2008 (Annexure P2). The petitioner submitted application along with 10% earnest money for allotment of 2 marla plot under the oustees quota. The respondents rejected claim of the petitioner and refunded earnest money on 19.07.2010 (Annexure P5). The petitioner filed Civil Writ Petition

No.19594/2010, disposed of on 10.11.2010 whereby the order impugned was quashed with a direction to the respondents to pass a speaking order. The impugned order dated 30.08.2011 (Annexure P6) was passed in pursuance of the directions issued by this Court.

Counsel for the petitioner would contend that the impugned order is wholly unreasonable, arbitrary, illegal and thus cannot be allowed to sustain. It is urged that as per the impugned order, the petitioner is eligible for 3 marla plot but he has claimed 2 marla plot. It is argued that there is no justification for rejection of his claim on the premise that he has sought lesser relief than that of his eligibility / entitlement.

Counsel for the respondents, on the contrary, has supported the impugned order. It is argued that as no 2 marla plot was available in Urban Estate, Pataudi, therefore, earnest money deposited by the petitioner was, admittedly, refunded to him in the year 2010.

We have heard counsel for the parties and perused the records.

There is no dispute that due to acquisition of 4 marla land of the petitioner, situated in the revenue estate Pataudi, District Gurgaon, the petitioner became eligible for allotment of a plot as an oustee. A plain reading of order passed by the Outstees Adalat makes it evident that claim of the petitioner has been rejected primarily on the ground that he was eligible for 3 marla plot but applied for 2 marla plot. A relevant extract from the order impugned reads thus:-

“The claim of the petitioner/applicant for allotment of plot has been examined by the Oustees Adalat under the above policy and found that:-

-the 4 Marla land of Sh.Mahavir petitioner was

acquired vide Award No.30 dated 9.1.2006 for Sector 1, Pataudi. As per policy he was eligible for 3 Marla plot but he has applied for 2 Marla plot alongwith required earnest money, hence the screening committee did not consider his application.”

It is surprising rather shocking that despite the petitioner having been found eligible for allotment of 3 marla plot under the oustees policy but as he made a claim for area lesser than that of his entitlement, the Oustees Adalat consisting of District Town Planner, Gurgaon, Estate Officer-I, HUDA Gurgaon, Land Acquisition Officer, Gurgaon, as its members with Administrator HUDA, Gurgaon as the Chairman proceeded to reject his claim. It is unknown to any legal system or decision making process that claim of a person can be rejected on account of his having asked for lesser relief than that of his entitlement. Counsel for the respondents is not in a position to justify the impugned order. In this view of the matter, we are of the considered opinion that rejection of claim of the petitioner is palpably wrong and wholly unjustified and thus, the impugned order is liable to be quashed.

For the reasons aforesaid, the petition is allowed, the impugned order passed vide memo No.14266 dated 30.08.2011 qua the petitioner is set aside. The respondents are directed to allot 2 marla plot to the petitioner under the oustees quota, in accordance with law, within a period of three months from the date of receipt of certified copy of the order. No order as to costs.

(AJAY KUMAR MITTAL)
JUDGE

(REKHA MITTAL)
JUDGE

May 25, 2015.