IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17207 of 2014
Date of decision: 30.4.2015

Maharaja Yadavindra Enclave Committee
……Petitioners

Vs.

State of Punjab and others

…..Respondents

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

Present: Mr. Rakesh Gupta, Advocate for the petitioners.

Ms. Munisha Gandhi, Addl.A.G.Punjab.

Mr. G.S.Attariwala, Advocate for the Improvement Trust.

Ajay Kumar Mittal,J.

1. Through the present petition filed under Articles 226/227 of the Constitution of India, the petitioner-committee prays for quashing the notice dated 3.4.2014, Annexure P.1 issued by the respondent authorities whereby additional amount has been demanded from its members without any justification.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner committee has been appointed by two associations namely Maharaja Yadavindra Enclave Welfare Society, Patiala and Maharaja Yadavindra

Enclave Residents Welfare Association, Patiala, registered under the Societies Registration Act, 1860. The committee represents the allottees and subsequent transferees within the residential enclave of 42 acres scheme framed by the Improvement Trust, Patiala. It is involved in undertaking various acts for the welfare of its members. The State Government vide its notification dated 1.12.1999 issued under Section 42 of the Punjab Town Improvement Act, 1922 (in short, "the 1922 Act") accorded sanction to the development scheme for an area measuring approximate 42 acres on Nabha Road, Patiala situated within the municipal corporation limits of Patiala framed by the Patiala Improvement Trust, Patiala. The Land Acquisition Collector vide award dated 29.11.2001, Annexure P.2 awarded compensation for the acquired land at the rate of ₹ 214/- per square yard while separate compensation was assessed for the structures and trees on the spot. Aggrieved by the award, the land owners initiated proceedings under Section 18 of the Land Acquisition Act, 1894. Vide award dated 28.9.2012, Annexure P.3, the Land Acquisition Tribunal enhanced the amount of compensation to ₹ 750/- per square yard. Still not satisfied, the land owners filed CWP No.1322 of 2013 ***(Sunil Khosla vs. State of Punjab and others)*** in this Court which was decided vide order dated 30.9.2013, Annexure P.4, enhancing the amount of compensation to ₹ 840/- per square yard. The Improvement Trust, Patiala feeling aggrieved by the order, filed Special Leave Petition before the Apex Court which was dismissed vide order dated 5.5.2014, Annexure P.5. Thereafter, the entire area of 42 acres was demarcated into residential plots, commercial sites, primary schools etc. Out of the entire area earmarked for residential purposes, initially the plots were allotted to various individuals by way of draw of lots. The remaining plots were sold by way of open auction by respondent No.4. The reserve price for plots to be allotted by way of draw of lots was calculated as per the chart provided by respondent No.4 which included various components like cost of acquisition of entire land measuring 42 acres at the rate of ₹ 500/- per square yard, conservancy charges for five years at the rate of 10% per acre per year and unforeseen charges at the rate of 15% of the total calculated price. Thus, according to the respondents, the total cost of the plot comes to ₹862.50 per square yard. Respondent No.4 – the Trust vide notices dated 3.4.2014 directed various plots holders to pay additional sum of money on account of enhancement in the value of land. They moved representation dated 17.4.2014, Annexure P.9 to the Executive officer of respondent No.4. Since no reply was received, they appeared before the Deputy Commissioner-cum-Chairman of the respondent Trust. Having received no response, they have filed the instant writ petition.

3. We have heard learned counsel for the parties.

4. Learned counsel for the petitioner submitted that the additional price sought to be demanded vide notice 3.4.2014, Annexure P-1 is not justified. Learned counsel for the respondents supported the impugned notice.

5. A perusal of the impugned notice Annexure P.1 shows that additional amount on account of enhancement in compensation of the acquired land has been claimed by the respondent-Trust. It is obligatory upon the respondent-Trust to consider the issues raised by the petitioner-committee in its Notice of Demand and redress its grievances by passing a speaking order. Suffice it to observe that mere stipulation in the impugned

demand notice that the additional price is being demanded on account of enhancement of land compensation in view of the compensation awarded by the court does not fulfill the requirement of the principles of natural justice.

6. In our considered view, the factual issues require to be dealt with by the respondent-Trust by passing a reasoned order before raising the demand of the additional liability. Consequently, the present writ petition is disposed of at this stage with the following directions:-

(i) it shall be open to the petitioner to file detailed and comprehensive representation showing that the amount claimed by the respondents is not payable, within a month from the date of receipt of a certified copy of this order;

(ii) respondent No.4 shall consider the objections raised by the petitioner and dispose of the same by passing a speaking order as early as possible and preferably within two months from the date of receipt of the representation;

(iii) the petitioner shall be afforded an opportunity of being heard and if so required, it may be permitted to produce any material or proof in support of its claim that the demand raised by the Corporation towards enhanced price is excessive;

(iv) in case, at the time of passing of final order, any amount is found to be refunded to the petitioner, the same shall be refunded within a period of two months, in accordance with law.

(Ajay Kumar Mittal)
Judge

April 30, 2015 **(Rekha Mittal)**
'gs' **Judge**