

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.17526 of 2014 (O&M)

Date of decision:02.09.2015

Anil Kumar

... Petitioner

v.

Principal Secretary to Govt. of Haryana & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Kanwardeep Singh, Advocate for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

Mr. Mahavir Sandhu, Advocate for respondent No.2.

...

S.J. VAZIFDAR, ACTING CHIEF JUSTICE.

The petitioner has challenged an order dated 07.03.2014 rejecting the petitioner's appeal. On 19.12.2007, the petitioner was allotted a plot for a consideration of about Rs.85,00,000/-. The petitioner paid 25% of the total consideration. The balance 75% was to be paid in eight equal annual installments. Admittedly, the petitioner failed and neglected to pay any amount thereafter. Admittedly again, notices dated 05.02.2010, 06.09.2010, 01.10.2010 and 13.10.2010 demanding payments were ignored by the petitioner. The petitioner was afforded an opportunity of personal hearing. He did not avail the same. He never attended the office of the respondents.

2. It is in these circumstances that the allotment was ultimately cancelled by an order dated 15.09.2011 and the amounts deposited by the petitioner were forfeited.

The cancellation cannot be faulted in these circumstances. The

petitioner's only case is that in view of Rule 22 of the Land Disposal Rules, 1976, (in short '1976 Rules) the petitioner is entitled to have the plot restored upon payment of the amount together with interest and penalty thereof.

4. The question of setting aside the order of cancellation and putting the petitioner in possession of the plot originally allotted to him cannot arise for two reasons. Firstly, the petitioner admittedly failed and neglected to make payment for almost four years. Secondly, in lieu thereof and after the cancellation of the allotment, the respondents auctioned the plot again. A third party bid of the auction and was allotted the plot. The third party is not before us. It would be unfair in any event to cancel the allotment in favour of the third party. Learned counsel appearing on behalf of the petitioner fairly and rightly did not even press for this relief namely that he be permitted to occupy the plot that he was originally allotted.

5. The petitioner's claim is now restricted to the allotment of an alternate plot but at the rate that was prevalent on 19.12.2007 i.e. the date of the allotment of the plot in favour of the petitioner. The petitioner contends that his case is similar to and at par with the case of several other parties. He contends that such parties have been accorded the benefit of Rule 22 of the 1976 Rules. In other words, according to him, those parties have been permitted to retain the plots only upon payment of penal interest. In the impugned order, it is observed that his case is that the respondents adopted different norms in others cases cannot be accepted without verifying the condition(s) that obtained therein. However, having said that the order does not consider or verify the conditions prevalent in the cases cited by the petitioner. The respondents strongly contended that the instances cited by

the petitioner are not comparable to the petitioner's case that is also an aspect for the respondent to decide. We were invited to compare the facts and circumstances of those cases with the petitioner's case. We do not intend doing so in this writ petition. This is for the respondents to consider in the first instance.

7. In these circumstances, the petition is disposed of by the following order:

The impugned order is set aside and remanded only to consider whether the alternate plot ought to be offered at the existing market rate or at the rate prevalent on 19.12.2007 on the basis that similarly situated parties had been granted such relief. The petitioner's claim which is now restricted only for the alternate plot. The petitioner does not press the claim for the original plot. It is clarified that the alternate plot may or may not be of the same size of the original plot.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

02.09.2015
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