

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 20232 of 2013. [O&M]
Date of Decision: 31st August, 2015.

Rajinder Pal Goyal & Ors. Petitioners

Versus

State of Punjab & Ors. Respondents

Present: Sarv Shri Harish Goyal, M.L.Gill, Yashwinder Singh,
Harish Goyal, Mohit Jaggi, V.K.Sandhir and Naresh
Kaushal, Advocates, for the petitioners.
Mr. K.K.Gupta, Additional AG, Punjab.
Mr. Sekhar Verma, Advocate for GMADA.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE JASPAL SINGH**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J.[ORAL]

This order shall dispose of CWP Nos. 20232, 21072, 25182, 21068, 20333, 20299 of 2013, 23021 and 23322 of 2014 as common questions of law and facts are involved in these cases. For the sake of brevity, the facts are being extracted from CWP No. 20232 of 2013.

[2]. The question that arises for consideration in these cases is whether the petitioners are entitled to benefit of a special Rehabilitation Policy evolved in the meeting held on 01st June, 2001 under the Chairmanship of Minister In-charge, Department of Housing and Urban Development [P-1], for the rehabilitation of “original land owners/original residents of village Lambian who were in illegal possession of PUDA land falling in Sector 69.....”?

[3]. The policy decision recites that the benefits thereunder are meant for the persons whose *“land stands acquired since long but physical possession could not be taken at that time”*. Other salient features of the policy, especially the clauses [i], [iii], [vii] and [ix] read as follows:-

“[i] Rehabilitation scheme for the original residents/ original landowners of village Lambian will be undertaken in Sector 71, SAS Nagar in the area kept as reserved along with the village Mataur.

[ii] xx xx

[iii] The number and area of residential plots to be allotted [based on survey] is as under:-

<i>Sr. No.</i>	<i>Present land holding/land ownership</i>	<i>Area to be allotted</i>	<i>No. of units</i>
<i>1</i>	<i>Upto 100 Sq. Yards</i>	<i>50 Sq. Yards</i>	<i>57</i>
<i>2</i>	<i>101-250 Sq. Yards</i>	<i>100 Sq. Yards</i>	<i>13</i>
<i>3</i>	<i>251-450 Sq. Yards</i>	<i>150 Sq. Yards</i>	<i>4</i>
<i>4</i>	<i>451-601 Sq. Yards</i>	<i>250 Sq. Yards</i>	<i>1</i>
<i>5</i>	<i>605-998 Sq. Yards</i>	<i>300 Sq. Yards</i>	<i>2</i>
<i>6</i>	<i>999-1240 Sq. Yards</i>	<i>400 Sq. Yards</i>	<i>1</i>
<i>7</i>	<i>1241 and above</i>	<i>500 Sq. Yards</i>	<i>1</i>

[vii] In case of commercial plots one Booth of 8'x12' will be allotted to each land owners/original residents having total land under commercial use @ Rs.6000/- per square yard to be paid as per [v] above.

[viii] xx xx

[ix] Land owners will draw the amount of the land compensation already deposited by PUDA in the Court. No more additional compensation due to interest, structure and trees shall be paid for the land by PUDA”.

[4]. While hundreds of persons were allotted residential or commercial sites under the above stated policy, some of those who

were denied such benefits approached this Court in a bunch of writ petitions. Those writ petitions were decided by this Court vide order dated 17.10.2012 [P-3] constituting a Committee comprising [i] Secretary-cum-Legal Remembrancer, Punjab as its Chairman, [ii] Chief Administrator, GMADA and Additional Deputy Commissioner [General], SAS Nagar, Mohali, as its Members. The Committee was required to answer the following questions:-

- “(1) Whether the petitioner(s) was/were the original residents of village Lambian?*
- (2) Whether the petitioner(s) was/were the original owner(s) of the land in village Lambian?*
- (3) Whether the said land or any part thereof was acquired by the Punjab Government to set up the Urban Estate, Mohali?*
- (4) Whether the subject land was being utilized for residential, commercial or mix use purposes by the owner(s) before it was acquired?*
- (5) Whether the owner(s) of the acquired land, namely, the oustees are entitled to one plot, whether residential or commercial or both under the Special Rehabilitation Policy framed for village Lambian?*
- (6) Whether the tenant(s) or un-authorized occupant(s) who have built premises on the land of village Lambian before its acquisition and/or were in possession for a sufficient long period, may be generation to generation, are also entitled to any benefit under the policies and if so, the nature of such benefit?*
- (7) Whether the petitioner(s) have been discriminated in the matter of grant of benefits under the Special Rehabilitation Police framed for village Lambian?*
- (8) Whether the choice to select residential or*

commercial property, if the owner is found entitled to allotment of one property only, should vest in the owner or in the Authority?

(9) *Whether a person who bought land for consideration in village Lambian before issuance of the notification under Section 4 of the Land Acquisition Act and is a bona fide purchaser, is entitled to be treated at par with original owner?*

[5]. In deference to those directions, the Committee has submitted its report dealing with each case separately. As the petitioners failed to convince the Committee for acceptance of their claims, that they have approached this Court in this second round of litigation.

[6]. The documents placed on record do suggest that the petitioners are claiming ownership rights qua the land/properties situated within the revenue estate of village Lambian on the strength of registered sale deeds executed in their favour. These properties were subsequently acquired vide Award 22nd February, 1995.

[7]. The petitioners have categorically averred that each one of them had purchased the land property through registered sale deeds much before the publication of notification dated 15th December, 1992 issued under Section 4 of the Land Acquisition Act, 1894. The petitioners are said to have produced their respective sale deeds before the Committee along with several other documents including Letters of Intent issued by GMADA/PUDA in their favour but which were subsequently cancelled/withdrawn.

[8]. The Committee has turned down the petitioners' claim observing as follows:-

“....Although, the learned counsel for the petitioners submitted that they were bona-fide purchasers before the acquisition of land, but he has not placed on record any document showing the ownership of any piece of land prior to acquisition of land. To come within the ambit of original land owners the petitioners were bound to produce any document, i.e., sale deed or gift deed or any other relevant document of ownership, to prove their title over such land only then they can be termed as original owners of the land. The petitioners are not claiming themselves as original residents of village Lambian, but their claim rest on being original land owners, which is not proved at all”. [Emphasis applied]

[9]. While pleading hostile discrimination against them, the petitioners have pointed out that the Committee has accepted the claim of one Gurdial Singh at Sr. No. 24, with the following reasoning:-

“...The petitioner has placed on record a copy of valuation report of various structures of village Lambian and photo copy of sale deed dated 14.12.1992. The perusal of this sale deed reveals that name of the petitioner is there in the sale deed vide which he purchased half marla of land from one Shri Ashok Kumar on 14.12.1992, i.e. Prior to the acquisition in 1995. This sale deed has established the ownership of the petitioner and his land was acquired in 1995 and he is definitely entitled for the plot in lieu of his land acquired as per the Scheme”.

[10]. We find merit in the contention raised on behalf of the petitioners that if the Committee has found Gurdial Singh eligible on the basis of sale deed dated 14.12.1992, there is no rhyme or reason in rejecting their claim as they had also purchased the land in village

Lambian before 14.12.1992 through registered sale deeds. According to the petitioners there were 16+20=36 documents [including Sale Deeds] placed by them before the Committee for its consideration but only 4 or 5 documents have been referred to in the impugned report-cum-order.

[11]. The *litmus* test for determining eligibility of the petitioners is [i] whether they were owners of the land/properties in village Lambian before issuance of Section 4 notification?; [ii] if so, whether such land was acquired vide Award dated 22nd February, 1995? and [iii] if so, on what basis they can be denied the benefit of policy dated 01st June, 2001 when similarly placed persons have got the desired relief?

[12]. It would be appropriate at this stage to notice the stand taken by Shri Sekhar Verma, learned counsel for GMADA as according to him only those persons who were in “illegal possession” of PUDA land were required to be rehabilitated and not those who on acquisition of their respective properties surrendered the possession as law abiding citizens.

[13]. On a careful reading of its different clauses does not lend support to the plea that the subject-policy intended to doll out any 'premium' on the unlawful action of resisting dispossession even after the lawful acquisition of land or property. Rather, one-time concession was granted so as to address an unusual unique human and social problem for the affected persons were to be uprooted from their residential houses or small scale commercial shops. If the policy decision is construed to favour only the unauthorised occupants and

not those who acknowledged the power of 'eminent domain', it would smack arbitrariness and might render the policy liable to be struck down. Suffice it to say that the object of policy dated 01st June, 2001 was to rehabilitate the original landowners/ original residents of village Lambian and if the petitioners' sale deeds are genuine and they had purchased the land/properties much before the start of acquisition process, they surely fall within the eligible category. The benefit of subject policy thus can not be denied to them.

[14]. For the reasons aforementioned, we allow these writ petitions, set aside the impugned report-cum-order so far as it pertains to the claims of petitioners and direct the Chief Administrator, GMADA to determine the questions [i] to [iii] formulated in Para 11 of this order and if those questions are answered in affirmative, then let the benefit of the policy dated 01st June, 2001 be extended to them.

[15]. Those of the petitioners who have not appended their sale deeds or any other conclusive proof of ownership of the land before issuance of Section 4 notification, shall be at liberty to produce such proof before the Chief Administrator, GMADA, who may ascertain the correctness of such documents through the revenue or other civil authorities and if the same is found to be genuine, let the relief in terms of the directions issued here-in-above be extended to such claimants as well. The needful shall be done within a period of four months from the date a certified copy of this order is received.

[16]. Having held that, the other vital issue that requires

determination is the rate of allotment chargeable from the petitioners, if they are found eligible for allotment. It is an admitted fact that the petitioners are still in possession of the properties. All of them are using the same as their source of livelihood or as dwelling units. None of them has been deprived of the fruits of the properties though the same were acquired more than two decades back. Conversely, the respondent-authorities have not been able to utilise the acquired land for any public purpose, though compensation was deposited by them years back. In such a situation, we are of the considered view that the equities can be well balanced by directing the petitioners to pay the rate of allotment as it prevailed in the year 2012 when this Court passed the order dated 17.10.2012 [P-3] in the first round of litigation for determination of their eligibility in terms of the subject policy. Ordered accordingly.

[17]. Disposed of. Dasti.

(SURYA KANT)
JUDGE

August 31, 2015.
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(JASPAL SINGH)
JUDGE