

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1.)

CWP No.21071 of 2013
Date of Decision:- 13.10.2015.

Malkiat Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(2.)

CWP No.21105 of 2013

Surinder Kaur Bajwa

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(3.)

CWP No.21070 of 2013

Shivaji

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(4.)

CWP No.21069 of 2013

Shivaji

.....Petitioner

Versus

State of Punjab and others

.....Respondents

(5.)

CWP No.21180 of 2013

Nasib Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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?**

Present: Mr. Mohit Jaggi, Advocate for the petitioner(s).

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Shekhar Verma, Advocate for GMADA.

SURYA KANT, J. (ORAL)

1.) This order shall dispose of CWP Nos. 21071, 21105
21069, 21070 and 21180 of 2013 as the point in issue raised in these
cases is common in nature.

2.) The question that arises for consideration is whether the
petitioners are entitled to allotment of one residential and one

commercial property in lieu of acquisition of their land/properties, in terms of the special rehabilitation policy evolved on 01.06.2001 (Annexure P-2 in the lead case) formulated for the rehabilitation of *“original landowners/original residents of village Lambia----xxx---xxx---xxx”?*

3.) The admitted facts are that vide notification dated 15.12.1992 issued under Section 4 of the Land Acquisition Act, 1984, land and existing structures within the revenue estate of village Lambian were notified for acquisition and those properties were finally acquired vide award dated 22.2.1995.

4.) Since the persons in occupation of residential houses or commercial shops were to be uprooted, a special rehabilitation package-cum-policy was evolved on 01.06.2001 under the Chairmanship of Minister-in-charge, Department of Housing and Urban Development.

5.) The aforesaid policy recites that the benefits thereunder were meant for the persons whose *“land stands acquired since long but physical possession could not be taken”*. The other salient features of the policy are to the following effect:-

“[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”.*

6.) It is not necessary to refer to the facts of each case and suffice it would be to mention that the immovable properties of petitioners were also acquired and on scrutinization of the claims for rehabilitation, they were found eligible for allotment of sites under the above mentioned rehabilitation policy.

7.) It further appears that the survey was got conducted and as per that report the petitioners were residing as well as doing some commercial activities in their respective premises, hence, their claims for allotment of one residential and one commercial site were

recommended. Based upon those recommendations, Letter of Intents were issued and the petitioners deposited the earnest money as well.

8.) Such claims were finally placed before the Authority in a meeting held under the Chairmanship of Minister-in-charge and it was resolved as follows:-

“The Authority considered the report of the Scrutiny Committee and decided to approve the same. Regarding the cases of multiple LOIs referred by the Scrutiny Committee, the Authority decided that only one residential and only one commercial site be allotted and any one person, subject to the eligibility in accordance with the rehabilitation scheme framed on 1.6.2001 in the meeting held under the Chairmanship of then Minister for Housing and Urban Development-cum-chairman, PUDA. In cases where more than one residential structure was acquired, the entitlement of the person be decided after clubbing the residential area acquired.”

9.) While the petitioners interpret the relevant clauses of the rehabilitation policy dated 01.06.2001 read with the above reproduced decision to mean that they are entitled to allotment of one residential as well as one commercial site, the respondents-GMADA has taken a stand that the petitioners are entitled to allotment of only one property subject to their choice whether commercial or residential.

10.) It may also be mentioned at this stage that various types of disputed claims under the above mentioned rehabilitation policy

were raised before this Court and a bunch of those cases was disposed of on 7.10.2012 by constituting a Committee comprising the followings:

- (i) Secretary-cum-Legal Remembrancer, Punjab.
- (ii) Chief Administrator, GMADA.
- (iii) Additional Deputy Commissioner (General), SAS Nagar, Mohali.

11.) The questions to be considered by that Committee were also formulated.

12.) Question No.5 formulated by this Court for adjudication by the said Committee was to the following effect:-

“(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?”

13.) The Committee answered question No.5 against the petitioners and has held as follows:-

“Issue No.5:

With regard to allotment of the plots whether residential or commercial or both, it is no where mentioned in the Scheme that if any person, who owns residential as well as commercial structure, is entitled for the allotment of the both sites separately. However, in para 3 of the said Scheme as mentioned above, only area has been mentioned which is to be allotted against the acquired area and nothing else. This means that there is no provision for allotment of two separate plots to the eligible persons. It is very clear that the present

Scheme for the rehabilitation of the oustees, is unique only to remove the grievances of the original owners/original residents of village Lambian. This is an enabling Scheme to help the oustees/villagers to rehabilitate themselves and nothing else, so this means a single oustee if he has more than two plots one residential and other commercial, is only entitled for one plot as per the area prescribed in para 3 of the Scheme.”

14.) The aggrieved petitioners have approached this Court in this second round of litigation.

15.) We have learned counsel for the parties and gone through the contents of the policy dated 01.06.2001 read with the subsequent decision relied upon by the petitioners. In our considered view, the subject-policy cannot be construed to mean that the expropriated owner of a property is entitled to allotment of both types of sites, namely, residential as well as commercial. The object of the policy is to rehabilitate the persons uprooted due to acquisition of their residential houses or commercial shops etc. In other words, if it was a case of acquisition of one property which was commonly used for residential as well as commercial purposes, only one site can be allotted in lieu thereof though it will be the discretion of the affected owner to decide whether he wants allotment of a residential property or commercial site.

16.) It has to be kept in view that the affected landowners have been paid compensation in lieu of acquisition of their properties.

The policy of rehabilitation is a kind of *ex gratia* benefit extended to

them to minimize the hardship caused due to acquisition of their constructed structures. It was not a case where the residential house or the commercial shops were located separately or that more than one property of a person was acquired. Taking into consideration the totality of circumstances, we are satisfied that the conclusion drawn by the Committee while deciding issue No.5 is based upon correct understanding of the special policy and calls for no interference by this Court. However, the petitioners shall be entitled to exercise their option for residential or commercial property and the earnest money deposited by them shall be adjusted against such allotment.

Let the needful be done within three months.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

October 13, 2015.

sandeep sethi