IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18582 of 2014 (O&M)
Date of decision: 7.4.2015

M/s Ramandeep & Company

……Petitioner

Vs.

State of Punjab and others

…..Respondents

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

Present: Mr. Sherry K.Singla, Advocate for the petitioner.
Ms. Manisha Gandhi, Addl.A.G.Punjab.
Mr. Akshay Kumar Goel, Advocate for respondent-Mandi Board.

Ajay Kumar Mittal,J.

1. This order shall dispose of CWP Nos.10591 and 18582 of 2014 as the issue involved in both the petitions is identical. However, the facts are being extracted from CWP No.18582 of 2014.

2. Prayer in CWP No.18582 of 2014 filed under Articles 226/227 of the Constitution of India is for quashing the orders dated 10.2.2009, 24.5.2011 and 28.2.2014, Annexures P.1, P.2 and P.5 passed by Respondent Nos. 3, 2 and 1 respectively being contrary to the provisions and Rule 3 of Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 2008 (in short," the Rules"). Further prayer has been made for

directing the respondents to allot a plot in New Grain Market, Mansa to the petitioner in pursuance to the advertisement published on 10.1.2008.

3. A few facts relevant for the decision of the controversy involved as narrated in CWP No.18582 of 2014 may be noticed. The petitioner firm is a licencee under Section 10 of the Punjab Agricultural Produce Markets Act, 1961 (in short, "the Act") of Market Committee, Mansa. It is continuously doing the business of sale and purchase of agricultural produce since 1991 onwards in the Grain Market, Mansa. Under Rule 3 of the Rules, plots are to be allotted to the old licencee *Arthias* who have been doing the business of sale and purchase of agricultural produce in the Old Grain Market. The petitioner in pursuance to the advertisement dated 10.1.2008 issued by Respondent No.3 applied for the plot in the New Mandi, Mansa within time. The petitioner fulfilled all the requisite conditions and was eligible for the allotment of the plot in the New Grain Market, Mansa. Vide impugned order dated 10.2.2009, Annexure P.1, the Estate Officer rejected the claim of the petitioner firm on the ground that the petitioner appeared before the allotment committee and submitted an application to withdraw its application in favour of another applicant M/s Naval Kumar and Company who had been allotted a plot in the New Grain Market. Under the allotment rules, atleast two plots of lesser size can be allotted to the firms who are doing business in one premises. Aggrieved by the order, the petitioner filed appeal under Rule 12 of the Rules which was dismissed vide order dated 24.5.2011, Annexure P.2. Still not satisfied, the petitioner filed revision petition under Section 42 of the Act which was dismissed vide order dated 28.2.2014, Annexure P.5. Hence

the instant petitions.

4. Written statement has been filed on behalf of Respondent Nos. 2 and 3 inter alia stating that three firms from Shop No.85 applied for allotment of a plot in New Mandi, Mansa. The said firms were M/s Naval Kumar & Company, M/s Pyare Lal Shivji Ram and M/s Ramandeep & Company. All the three firms were found eligible for allotment of plot. Out of the three firms, the petitioner firm gave NOC in favour of M/s Naval Kumar & Company on its free will. Therefore, as per provisions of Rule 3 (v) of the rules, two firms were allotted Plot Nos. 375 and 570 measuring 8'.3” x 40' respectively in New Mandi, Mansa. As per provisions of Rule 3 (v) of the Rules, one single occupier of a premises in the old Market who is otherwise eligible for allotment of a plot shall be eligible for allotment. In case there are more than two licensees operating from one premises then only two licensees shall be eligible for allotment of independent plots of lesser size in the new market who are otherwise eligible. The remaining licensees who are also operating from the same premises shall give affidavit to the allotment committee to the effect that they have no objection in allotting plots to the two particular licencees. In this way, the petitioner had rightly submitted its application to withdraw for allotment of plot before the committee in favour of another applicant M/s Naval Kumar & Company. On these premises, prayer for dismissal of the petition has been made.

5. We have heard learned counsel for the parties and perused the record.

6. It would be advantageous to reproduce the relevant portion of Rule 3 of the Rules, which reads thus:-

> "3. **Sale of Plots** – All plots in the markets developed by the Board or committees shall be disposed of by way of open auction or allotment in accordance with the provisions of these Rules:
>
> Provided that the plots will be allotted to the licensed dealers of old market which are denotified resulting in displacement of such licensed dealers on free hold basis for conducting business of purchase or sale of agricultural produce in the new markets on the following terms and conditions,namely;
>
> (i) to (iv) xx xx xx xx xx xx xx xx
>
> (v) the licensee should have been in possession of a premises as an owner or tenant or in any other legal capacity in the old market which fact shall be determined by the allotment committee constituted under sub rule (2) of rule 4.
>
> Provided that in case there is only one single occupier of a premises in the old market, who is otherwise eligible for allotment of a plot, shall be eligible for allotment. In case there are more than two licensees, operating from one premises, then only two licensees shall be eligible for allotment of independent plots of lesser size in the new market who are otherwise eligible. The remaining licensees who are also operating from the same premises shall give affidavits to the said allotment committee to the effect that they have "No Objection" in allotting plots to the two particular licensees."

7. A perusal of the above rule 3(v) shows that in case, where there is only one single occupier of a premises in the old market who is otherwise eligible for allotment of a plot shall be eligible for allotment. If there are more than two licensees operating from one premises, then only two licensees shall be eligible for allotment of independent plots of lesser size in

the new market who are otherwise eligible. The remaining licensees who are also operating from the same premises shall give an undertaking to the effect that they have no objection in allotting plots to the two particular licensees. In the present case, three firms namely M/s Naval Kumar & Co., M/s Payare Lal Shivji Ram and M/s Ramandeep & Company were operating from one premises i.e. Shop No.85. Two of the firms who were found eligible for plot allotment i.e. M/s Pyare Lal Shivji Ram and M/s Naval Kumar & Co. as the petitioner firm gave NOC in favour of M/s Naval Kumar & Co. on its free will. They were allotted Plot Nos.375 and 570 measuring 8.3' x 40' respectively in the New Mandi, Mansa. Thus, as per rules, the petitioner was not found eligible for allotment of plot. Para 7 of the written statement reads thus:-

> "7. That the contents of para No.7 of the petition are matter of record. The order dated 24.5.2011, Annexure P.2 had been passed in accordance with the provisions of Rule 3(v) of the Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 1999 (First Amendment) Rules, 2008. It is specifically denied that only the petitioner firm and M/s Naval Kumar & Company had been doing business in shop No.85 at Old Grain Market, Mansa. It is pertinent to mention here that infact three firms from shop No.85 applied for plot allotment in New Mandi, Mansa. The three firms were M/s Naval Kumar & Co., M/s Payare Lal Shivji Ram and M/s Ramandeep & Company. All the three firms were found eligible for plot allotment. Out of three firms, the petitioner firm gave NOC in favour of M/s Naval Kumar & Company on its free will. Therefore, as per the provisions of Rule 3(v) of the said Rules, two firms namely M/s Naval Kumar & Company and M/s Pyare Lal Shivji Ram were allotted plot Nos.375 and 570 measuring 8'.3" x 40', respectively in the New Mandi, Mansa.

According to the provisions of Rule 3(v) of the said rules, one single occupier of a premises in the old market who is otherwise eligible for allotment of a plot shall be eligible for allotment. In case there are more than two licensees, operating from one premises, then only two licensees shall be eligible for allotment of independent plots of lesser size in the new market who are otherwise eligible. The remaining licensee, who are also operating from the same premises shall give affidavits to the said allotment committee to the effect that they have no objection in allotting plots to the two particular licensees.

Hence the petitioner firm rightly withdrew its application for allotment of plot before the allotment committee in favour of another applicant M/s Naval Kumar & Company. The said application, to withdraw the application for allotment of plot in favour of the petitioner firm was allowed by the allotment committee. Therefore, the claim for allotment of plot in favour of the petitioner firm was not considered."

8. In view of the above, there is no error in the impugned orders rejecting the claim made by the petitioner. No material has been placed on record by the learned counsel for the petitioner to controvert the stand taken by the respondents. Consequently, finding no merit in the petitions, the same are hereby dismissed.

(Ajay Kumar Mittal)
Judge

April 07, 2015 **(Rekha Mittal)**
'gs' **Judge**