

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7870 of 2015

Date of Decision: 27.4.2015

Tarsem Chand and others

....Petitioners.

Versus

The State of Punjab and others

...Respondents.

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

PRESENT: Mr. Vijay Sharma, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of Mandamus directing the respondents to fix reserve price for allotment of plot for shops/booths at New Grain Market (New Anaj Mandi), Samana as per the provisions of the Punjab Agricultural Produce Markets Act, 1961 (in short "the Act").

2. The petitioners and their predecessor-in-interest were traders/licensed dealers/commission agents and engaged in the purchase and sale of foodgrains from the farmers of local area and have been operating from Samana Mandi established by Farmer-e-Shahi/Order of His Highness, the Maharaja of Patiala in the year 1937. of Samana. Government of Punjab had approved the old grain market of Samana. An advertisement dated 5.4.1998 was advertised by the Government of Punjab for auction of plots in the new mandi township

including township of Samana. The Supreme Court vide judgment dated 30.4.1998 titled as M/s Labha Ram & Sons v. State of Punjab, reported as JT 1998 (3) SC 636 decided the issue of establishment of new mandi townships. The Aarhti Association of Samana (for brevity "the Association") filed CWP No. 7099 of 1998 on 13.5.1998 for quashing the advertisement dated 5.4.1998. The said writ petition was disposed of by this Court vide order dated 13.11.1998 as during the pendency of the writ petition, the Government of Punjab issued allotment policy, 1998. Thereafter, another CWP No. 19827 of 1998 was filed by the said Association challenging the allotment policy, 1998. The said policy became redundant as the Government of Punjab made the Punjab State Agricultural Marketing Board (Sale and Transfer of Plots) Rules, 1999 (in short "the Rules"). Accordingly, CWP No. 19827 of 1998 was dismissed as withdrawn vide order dated 14.9.1999 with liberty to file a fresh petition for challenging the Rules. The Association filed another CWP No. 13997 of 1999 challenging the validity of the Rules which is pending adjudication. One Gurdial Singh filed COCP No. 634 of 2002 on 6.5.2002 (Annexure P-3) in which notice was issued for 3.9.2002. During the pendency of the said contempt petition, Government of Punjab issued a notification dated 8.5.2003 under Section 7(2) of the Act for denotifying the schedule of Punjab agriculture produce business. The Association challenged the said notification by filing CWP No. 11939 of 2003 (Annexure P-4/A). During the pending of the said writ petition, this Court vide order dated 5.8.2003 appointed Shri TPS Chawla, Advocate as local commissioner to verify stage of development/functioning of New Grain Market, Samana. This Court vide interim order dated 29.8.2003 (Annexure P-4/D) made interim

arrangement for purpose of amicable settlement of controversy. In pursuance thereto, the petitioners filed applications for allotment of plots in New Grain Market by depositing 50% of the demand of cost. The respondents acquired 51.25 acres of land for establishment of a New Market in Samana and out of which 10.56 acres of land was earmarked to be used for construction of shops/booths which were to be sold to the existing/new Aarthias/commission agents. The sites for shops/booths carved out in New Grain Market Samana have been allotted, amongst others, to the existing licensees under the Act who were already working in the Old Market Area of Samana. Respondent No.2 did not consider the plea of the petitioners regarding reserve price. The Estate Officer, Punjab Mandi Board issued notices dated 3.9.2014 (Annexure P-5 Colly) to the petitioners directing them to deposit the remaining price along with interest. The petitioners filed a detailed representation dated 4.11.2014 (Annexure P-9) to the respondents for fixing reserve price for the allotment of plot for shops/booths at New Grain Market (New Anaj Mandi), Samana, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have moved a representation dated 4.11.2014 (Annexure P-9) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation dated 4.11.2014 (Annexure P-9), in accordance with law by passing a speaking order and after

affording an opportunity of hearing to the petitioners within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 27, 2015
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(REKHA MITTAL)
JUDGE