

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Execution Application No.18 of 2014 in
CWP No. 21877 of 2011.
Date of Decision: 30.11.2015

Rakesh Kumar Kapoor

--Applicant

Versus

Haryana Urban Development Authority &
another

--Respondents

**CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR.
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. P.K. Mutneja, Advocate for the applicant.

Mr. Deepak Balyan, Advocate for HUDA.

TEJINDER SINGH DHINDSA, J.

Rakesh Kapoor filed CWP No.21877 of 2011, which was
disposed of by a Division Bench vide order and judgement dated 14.5.2012
in the following terms:-

*“The issues raised in the present writ petition are
covered by the judgment of this Court in LPA No.2096 of 2011
titled as Haryana Urban Development Authority and others Vs.
Sandeep and others, decided on 25.04.2012.*

*In view of the said fact, the present writ petition is
disposed of in the same terms as in Sandeep's case (supra).*

*Sd/- Hemant Gupta
Judge.
Sd/- A.N. Jindal
Judge.”*

2. The instant application seeks execution of such order.
3. To grasp the import of order dated 14.5.2012 it would be
necessary to refer to certain relevant facts which are not in dispute.
Petitioner/applicant along with his co-sharers namely Prem Sagar Kapoor,
Man Mohini Kapoor and Sudhir Kapoor were joint owners in possession of

land measuring 107 bighas 19 biswas situated in the revenue estate of Taraf Insar, Panipat. This land was acquired in the year 1992 for development of an Urban Estate at Panipat. Share of the petitioner/applicant in the acquired land came to approximately 5.6 acres. On 18.3.1992, HUDA framed a policy for allotment of residential and commercial plots to the oustees. In furtherance of such policy the Estate Officer, HUDA, Panipat issued advertisement dated 29.10.1992 inviting applications for allotment of residential plots from persons whose land stood acquired for development of sectors 13 and 17, Urban Estate, Panipat. Applicant being an oustee whose entire land holding measuring 5.6 acres had been acquired, applied for a 1 kanal (500 sq. yards) plot as per his entitlement under the 1992 Policy. Applicant's claim for allotment of plot under the oustee quota came to be rejected vide orders dated 26.3.2008 and 15.4.2008. Applicant filed CWP No.21272 of 2008 impugning the rejection of his claim. Applicant, at that stage, placed reliance upon a Division Bench judgement dated 7.8.2008 rendered in favour of his co-sharer namely Sudhir Kapoor in CWP No.7940 of 2007 and the operative part of which reads as follows:-

“In view of the aforesaid discussion, we allow the writ petition and direct the Haryana Urban Development Authority to allot plot in terms of policy of 1992 to the petitioner, as has been done in cases of other co-sharers.”

4. CWP No.21272 of 2008 filed by the present applicant was disposed of by the learned Single Judge on 11.2.2009 in the following terms:-

“Consequently, this writ petition is allowed and the impugned orders dated 26.03.2008 and 15.4.2008 (Annexure P9 and P10) are hereby quashed. The respondents are directed to reconsider the petitioner's claim for allotment

of a plot keeping in view the principles laid down by this Court in Sumer Pal's and Sudhir Kapoor's cases (supra). It is made clear that in case the petitioner is found otherwise eligible, his claim shall not be rejected on the ground that his co-sharers have been allotted plot (s) under the "Oustees Quota". The needful shall be done within three months from the date a certified copy of this order is received. The petitioner shall also be entitled to costs of Rs.5000/- which shall be firstly paid by the respondent -HUDA and thereafter shall be recovered from the Estate Officer, HUDA, Panipat.

Disposed of.

*Sd/-(Surya Kant)
Judge."*

5. HUDA preferred L.P.A No.597 of 2009 against the order dated 11.2.2009 and the same was dismissed by the Division Bench on 25.11.2009.

6. As the claim of the applicant for allotment under the oustee quota was not being considered he was constrained to file COCP No.436 of 2010. It is during the course of contempt proceedings that an allotment letter dated 22.3.2011 was issued by the Estate Officer, HUDA, Panipat allotting Plot No.465-P admeasuring 434 sq. meters in sector 13-17, Urban Estate, Panipat. The pricing of the plot was fixed as Rs.7590/- per sq. meter i.e. the prevailing allotment price in the year 2011. The applicant's grievance still subsisted to the extent that the allotment of the plot had been made at the current allotment price and not at the price which prevailed at the time of issuance of the advertisement in the year 1992 and in pursuance to which he had submitted his application. COCP No.436 of 2010 was disposed of on 31.3.2011 as infructuous in view of the fact that allotment of a residential plot had already been made. Liberty, however, was granted to the applicant to raise any grievance in respect of the price of the plot by way

of filing an appropriate representation.

7. The applicant, thereafter, approached the HUDA authorities raising a claim that he had applied for the plot under the oustee quota in pursuance to the 1992 policy and as such, he was entitled to be charged the price of Rs.987/- per sq. meter i.e. the allotment rate on the date of the advertisement issued in the year 1992 itself and not the prevailing allotment price as on the date of issuance of the allotment letter. The applicant, however, deposited a sum of Rs.9,05,867/- under protest. The representation filed by the applicant to be charged the price prevailing at the time of issuance of the advertisement was, however, rejected by the HUDA authorities vide order dated 29.7.2011.

8. It is against such factual backdrop that CWP No.21877 of 2011 was filed by the applicant raising a specific prayer that the HUDA authorities be directed to charge the price of the allotted plot under the oustee quota at the rate of Rs.987/- per sq. meter plus Rs.282.73/- per sq. meter (the additional price in view of enhancement of compensation awarded by the court in respect of the land acquired) i.e. Rs.1269.73/- per sq. meter. In the writ petition the applicant specifically averred that in the case of his co-sharers namely Sudhir Kapoor, Prem Sagar Kapoor and Man Mohini Kapoor and who were identically situated, the issue already stands settled vide common judgement dated 10.3.2011 rendered in L.P.A Nos.459, 460 and 461 of 2011 and a copy of the judgement was appended as Annexure P-12 along with the petition. Perusal of such Division Bench order and judgement dated 10.3.2011 would clearly show that in the case of the co-sharers it was held that under the 1992 policy, allotment of plots to oustees is required to be made at the allotment rates on the date of the

advertisement issued by HUDA i.e. Rs.987+282.73 i.e. Rs.1269.73 per sq. meter.

9. CWP No.21877 of 2011 came to be disposed of on 14.5.2012 in the light of judgement of this Court in L.P.A No.2096 of 2011 titled as **Haryana Urban Development Authority and others Vs. Sandeep and others** decided on 25.4.2012.

10. In the case of **Sandeep and others** (supra) various issues pertaining to the claim of oustees for allotment of plots under the Rehabilitation and Resettlement Schemes framed by HUDA from time to time came up for consideration. While adjudicating on the various issues specific questions were framed by the Division Bench and one of which was as to what price could be charged from an oustee i.e. price prevailing on the date of the allotment or when the sector was floated first? Such question was answered by the Division Bench in its judgement dated 25.4.2012 in the following terms:-

“Price to be charged from an allottee shall be the price mentioned in the public advertisement in pursuance to which the plot is allotted and not when the sector is floated for sale for the first time.”

11. CWP No.21877 of 2011 filed by the present applicant having been allowed and disposed of in terms of the judgement rendered by the Division Bench in **Sandeep and others** (supra), his claim for allotment of plot under the oustee quota at the price indicated in the advertisement in pursuance to which he had submitted his application stands established. In other words, the pricing of the plot in question that has been allotted to the applicant in terms of allotment letter dated 22.3.2011 has to be at the rate of Rs.987+282.73= Rs.1269.73/- per sq. meter absolutely at par with the price

charged from the other co-sharers.

12. In view of the above, the present application is allowed. The respondents shall convey to the applicant, within a period of six weeks, a fresh calculation sheet with regard to pricing of the plot in the light of the observations contained in this order. The excess amount, if any, that already stands paid by the applicant would be refunded to him forthwith.

13. Application is disposed of.

(S.J. Vazifdar)
Acting Chief Justice

(Tejinder Singh Dhindsa)
Judge

30.11.2015
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