

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.14855 of 2014
Date of Decision : 24.05.2016.**

Dhruv Khanduja

.....Petitioner

Versus

Haryana Urban Development Authority, and another

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. Deepak Balyan, Advocate for the respondents.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioner seeks a writ of certiorari to quash an order dated 10.07.2014 (Annexure P/4) allotting him a plot in Sector 57. The petitioner, in the alternative, seeks a writ directing the respondents to allot him a plot in the same sector in which he was earlier allotted the plot or in an adjoining sector.

2. Plot No.289, in Sector 43, Gurgaon was allotted to the original allottee in a draw of lots in the year 2002. The original allottee transferred the plot in favour of the petitioner on 19.03.2007. The entire consideration for the plot had been paid. There was difficulty in handing over the possession of the plot on account of litigation in respect thereof. Ultimately, consequent upon a draw of lots, the petitioner was allotted plot No.649, in Sector 57, on 10.07.2014. The petitioner challenges the said allotment. He contends that he ought to be allotted a plot in the same sector

i.e. 43 or any adjoining sector. In support of his contention he relies upon a policy issued by the Haryana Urban Development Authority, dated 18.02.2013.

3. The respondents state that no plot in Sector 43 is now available. The plots are, however, available in the adjoining sectors, such as 40, 41, 42 and 46 i.e. some of the adjoining sectors, Gurgaon. A group of writ petitions, the first of which was the case of **Mahender Pal Jain Vs. State of Haryana and others, CWP No.2759 of 2013**, was filed by the parties to whom the respondents had not handed over possession of plots allotted to them. The writ petitions were disposed of by an order and judgment dated 8.8.2013, of the Division Bench which *inter alia* observed as under:-

“It has been further agreed that firstly the draw of lots for allotment of the alternative plots will be held for the same Sector, and if in the said draw all the original allottees are not adjusted, then for the remaining allottees, a draw of lots for those allottees will be held for adjusting them in the adjoining Sector, and if in the said draw all the allottees are not adjusted in the adjoining Sector, then a draw of lots will be held for allotment of the alternative plots in any other Sector where the plots are available”.

It appears that the draw of lots had been held not only in respect of the persons who were allotted plots in that sector but also in respect of the persons who had been allotted plots in other sectors but could not put in possession of such plots. It is not possible in this petition at least, to set the clock back. Several parties would be affected by such an order. Such parties are not even before us.

4. However, it is clear that the petitioner is not bound to accept

the allotment of the plot in Sector 57, as it is not an adjoining sector. That the plot is not a suitable one is a different matter altogether. Although, the petitioner has contended that it is not even possible for the respondents to hand over the possession thereof, we will proceed on the basis that it would be possible for the respondents to do so. It would make no difference in view of the finding that the petitioner is entitled both in view of the judgment and in terms of the policy to be allotted a plot in the sector adjoining to the sector in which the petitioner-vendor was allotted a plot.

5. In the circumstances, the petition is disposed of by directing the respondents to consider the petitioner's case for allotment of a plot in a sector adjoining sector 43. It is needless to add that the allotment shall be made in accordance with law including by draw of lots. It is further clarified that by 'adjoining sector' we mean, a sector having a common boundary with Sector 43 such as for instance, Sector Nos. 27, 44, 52 and 52-A. In the event of plots not being available in those sectors, the petitioner is entitled for allotment to a plot nearest to those sectors, such as for instance Sector 28, 40, 41 and 51. The plot allotted in Sector 57 is not a plot in the adjoining sector.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

24.05.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE