

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 19244 of 2016

Date of Decision: 19.9.2016

Surinder Kaur and others

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE KULDIP SINGH.**

PRESENT: Mr. Ajay Pal Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have, *inter alia*, prayed for issuance of a writ in the nature of certiorari for quashing the order dated 1.6.2016 (Annexure P-9) vide which the penal interest and non-construction fee has been levied by the respondents; to quash the letter/order dated 4.7.2016 (Annexure P-11) whereby the petitioners have been directed to deposit a sum of ₹ 2,74,050/- as construction fee.

2. The predecessor-in-interest of the petitioners, namely, Late Shri Mohinder Singh was owner in possession of the agricultural land measuring 12 kanal 9 marlas situated in village Jamalpur Awana, Tehsil and District Ludhiana. The land in question along with the other land was acquired by the respondents vide award dated 31.3.1976. As per policy dated 17.4.1974, an oustee was entitled to allotment of a plot on preferential basis, if he had

no other residential house or plot anywhere in the State. The said policy was reiterated by the State Government in a later policy dated 2.2.1981. The predecessor-in-interest of the petitioners on the basis of the policies and notifications issued by the State Government dated 5.7.1981, applied to respondent No.3 vide application dated 31.7.1981 (Annexure P-1) for the allotment of 200 square yard plot and also deposited the requisite fee. Respondent No.2 developed two residential Sectors 38 and 39, Urban Estate, Ludhiana and sold all the plots without considering the claim of the oustees. However, some of the oustees were allotted the plots under the oustees quota. The predecessor-in-interest of the petitioner filed a civil suit in the year 1992 seeking allotment of a plot measuring 200 square yards at the rate of ₹ 85/- per square yard prevalent as on 31.7.1981. The civil court decreed the said suit to the extent that the plaintiffs were entitled to the allotment of plot as per the State policy on preferential basis. However, the relief for allotment of a plot on the reserve price was declined. The appeal carried by the plaintiffs was dismissed by the lower appellate court vide judgment and decree dated 27.2.1998. Against the judgment and decree dated 27.2.1998, the plaintiffs along with others filed RSA No. 1896 of 1999 and this Court vide judgment and decree dated 17.8.2000 (Annexure P-2) modified the judgment and decree of the lower appellate court to the extent that the case of the plaintiffs for the allotment of plot on preferential basis shall be considered by respondent No.2 along with other similarly situated allottees with the further directions to keep in view the fact that the other allottees have been given plots at the rate of ₹ 85/- per square yard. However, before passing the judgment, Annexure P-2, respondent No.2 had already allotted a plot measuring 100 square yards to the predecessor-in-

interest of the petitioners at the rate of ₹ 2700/- per square yard. One Sukhwinder Singh filed CWP No. 15206 of 1999 for allotment of plot at the rate of ₹ 85/- per square yard which was disposed of by this Court directing the respondent-Punjab Urban Planning and Development Authority (PUDA) to consider his claim in pursuance of the 1981 Scheme. On the basis thereof, the petitioners filed CWP No. 7998 of 2000 and this Court vide order dated 3.7.2000 disposed of the said writ petition in same terms. The PUDA vide order dated 8.11.2000 justified the rate of ₹ 2700/- per square yard. Accordingly, the petitioners challenged the orders dated 8.10.1998 and 8.11.2000 by way of CWP No. 18468 of 2002. This Court vide order dated 1.3.2007 (Annexure P-3) disposed of the said writ petition along with other writ petitions holding the petitioners entitled to the allotment of 100 square yard plots at the rate of ₹ 85/- per square yard and directed the petitioners to pay interest at the rate of 10% per annum to be compounded annually w.e.f. 1.1.1985 till payment is made on the balance price, i.e. amount calculated at the rate stated above minus the amounts already with the application. Feeling aggrieved, the PUDA filed SLPs before the Supreme Court which were dismissed as withdrawn vide order dated 4.11.2008 (Annexure P-4). The petitioners filed LPA No. 166 of 2007 whereas respondent No.2 filed LPA No. 14 of 2009 after the withdrawal of the SLP, against the judgment, Annexure P-3. This Court vide order dated 10.1.2014 (Annexure P-5) disposed of both the appeals upholding the orders passed by learned Single Judge to the allotment at the rates prevailing in the year 1985-86 and the excess amount, if any, charged from the writ petitioners shall be refunded to them. The petitioners and other similarly situated persons filed SLPs before the Supreme Court which were

dismissed vide order dated 23.11.2015 (Annexure P-6). However, the order dated 1.3.2007 (Annexure P-3) was modified to the extent that the rate of interest shall be paid @ 10% simple interest and not compounded interest. Thereafter, respondent No.4 vide letter dated 29.1.2016 (Annexure P-7) asked the petitioners to deposit the details of the receipts deposited by them. The petitioners vide letter dated 16.5.2016 (Annexure P-8) sent the receipts of the amount deposited. Respondent No.4 vide letter dated 1.6.2016 (Annexure P-9) directed the petitioners to deposit the penal interest and the non-construction fees. The petitioners moved an application dated 24.6.2016 (Annexure P-10) to respondent No.4 for implementation of the order of the Supreme Court and file dated 16.4.2015 deposited for getting the map passed along with the fees, be passed so that the construction be made. Again respondent No.4 vide letter dated 4.7.2016 (Annexure P-11) asked the petitioner to deposit a sum of ₹ 2,74,050/- on account of non-construction fee. In view of the orders passed by this Court and the Supreme Court, respondent No.4 vide order dated 1.8.2016 (Annexure P-12) ordered for refund of the amount of ₹ 3,47,256/- to the petitioners along with the prescribed calculations. Accordingly, petitioner No.2 moved a representation dated 11.8.2016 (Annexure P-13) to the Administrative Officer, GLADA, Ludhiana asking for the rate of interest from 1.1.1985, 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, petitioner No.1 has sent a representation dated 11.8.2016 (Annexure P-13) to the Administrative Officer, GLADA, Ludhiana, 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.4 to take a decision on the representation dated 11.8.2016 (Annexure P-13), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 19, 2016
gbs

(KULDIP SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No