

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 20372 of 2016

Date of Decision: 29.9.2016

Krishan Kumar Dwivedi and another

....Petitioners.

Versus

Haryana Urban Development Authority and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Vikas Chatrath, 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 prayed for issuance of a writ in the nature of Mandamus directing the respondents to handover physical possession of plot No. 2240-P, Sector 57, Gurgaon or in the alternative allot a plot of one kanal in Sector 57, Gurgaon or in the adjoining sectors in terms of the policy or to allot a plot of higher size on payment of difference of the same. Further, a direction has been sought to the respondents to decide the legal notice dated 16.5.2016 (Annexure P-13) sent by the petitioners within a specified period.

2. Deepak Mittal was allotted plot No. 1584-P, Sector 57, Gurgaon measuring 420 square meters vide allotment letter dated 13.1.2005. Vide re-allotment letter dated 12.5.2006, the said plot was transferred in favour of Surakshit Kumar. The petitioners purchased the said plot vide re-

allotment letter dated 23.11.2016 (Annexure P-1). All the installments including the payment of enhanced compensation as demanded by the Haryana Urban Development Authority (HUDA) were paid by the petitioners vide letter dated 14.12.2012. The conveyance deed was also executed in favour of the petitioners. However, the physical possession of the plot in question was not delivered to the petitioners. The petitioners vide letter dated 11.5.2010 (Annexure P-2) requested respondent No.2 for allotment of alternative plot in lieu of Plot No. 1584-P, Sector 57, Urban Estate, Gurgaon. The petitioners vide an application dated 28.12.2010 under the Right to Information Act, 2005 sought an information regarding delay in not handing over possession of the plot and how many plots were affected due to dispute and how many plots were pending for allotment. Respondent No.2 vide reply dated 7.2.2011 (Annexure P-3) informed that the plot in question was under dispute in CWP No. 8460 of 2006 and the development works were not complete at site, 66 plots of 1 kanal size were affected in different disputes and five plots were pending for allotment. The petitioners filed CWP No. 3172 of 2012 for allotment of alternative plot which was disposed of by this Court vide order dated 1.3.2012 (Annexure P-4) on the statement made by the HUDA that all the allottees who had not been delivered possession, the exercise would be done including demarcation in three months and thereafter allotment would be made in another two months. Thereafter, the petitioners were allotted plot No. 2240-P, Sector 57, Gurgaon vide re-allotment letter (Annexure P-5). The similarly situated persons filed CWP No. 19930 of 2014 and this Court vide order dated 24.9.2014 (Annexure P-6) disposed of the writ petition with a direction to the HUDA to handover the possession of plots to the petitioners

therein in accordance with law. The petitioners deposited the requisite fees/ charges regarding the plot in question. In view of policy dated 10.12.2007, the petitioners were entitled to interest for delay in handing over the physical possession of the plot and the said benefit was allowed to other allottees in CWP No. 20920 of 2011 decided on 1.10.2012 (Annexure P-7). Respondent No.1 framed a policy dated 10.12.2007 (Annexure P-8) regarding exchange of plots where possession of plot could not be offered within the time frame. One Smt. Sunita Devi filed CWP No. 21771 of 2010 and this Court vide order dated 7.12.2010 (Annexure P-9) disposed of the said writ petition with a direction to the respondents to decide her representation within a period of three months. In response thereto, respondent No.3 passed order dated 8.3.2011 (Annexure P-10). When nothing was done in her case, said Sunita Devi filed COCP No. 623 of 2011. During the pendency of the said COCP, the respondents allotted her an alternative plot of same size in the same sector. Thereafter, the said COCP was disposed of as infructuous by this Court vide order dated 23.5.2011 (Annexure P-11). In another case bearing CWP No. 22577 of 2010, this Court vide order dated 17.12.2010 (Annexure P-12) directed the respondents to decide the representation of the petitioners therein and that the plot shall not be allotted to any other person, if not already allotted. Accordingly, the petitioners served a legal notice dated 16.5.2016 (Annexure P-13) upon the respondents for physical possession of plot No. 2240-P, Sector 57, Gurgaon, 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 sent a legal notice dated

16.5.2016 (Annexure P-13) 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.3 to take a decision on the legal notice dated 16.5.2016 (Annexure P-13) or any other supplementary details filed, 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 29, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No