
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.22313 of 2016

Date of Decision: October 26, 2016

Dinesh Kumar Dhir

....Petitioner

versus

State of Punjab and others

...Respondents

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

Present: Mr. Rahul Sharma-I, Advocate for the petitioner.

AJAY KUMAR MITTAL, J. (Oral)

1. In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks a writ of mandamus directing the respondents to deliver the physical possession of Plot No.140, measuring 200 sq. yards in Scheme No.1, Guru Hargobind Nagar, Phagwara to him.

2. The Improvement Trust, Phagwara (respondent No.2) (in short 'the Trust'), in exercise of the statutory powers vested in it, acquired land measuring 76 acres for Scheme No.1, Guru Hargobind Nagar, near G.T. Road, Phagwara. As per the Scheme, Plot No.139 was allotted to Smt. Sudesh Uppal w/o Sh.Baldev Raj Uppal, however, it was in unauthorized occupation of some persons. But due to litigation the possession of the said plot was not delivered. After the death of Smt. Sudesh Uppal as well as her husband (Sh. Baldev Raj Uppal), Plot No.139 was transferred in the name of Sh. Rajesh Uppal s/o Sh. Baldev Raj Uppal. The

petitioner purchased the said plot from Sh. Rajesh Uppal and on payment of usual transfer fee, it was transferred in the name of the petitioner on 23.06.1995 (**Annexure P-1**). The total sale consideration for the said plot had already been deposited with the Trust as well. As the Plot No.139 was under unauthorized occupation, the petitioner made a request to the Chairman of the Trust for change of Plot No.139 allotted to him to Plot No.140 so that he is able to take possession thereof. Vide **Annexure P-2** dated 04.12.1995, the request of the petitioner was accepted and Plot No.140 in place of Plot No.139 was allotted to him but the possession of the said plot was also not delivered for want of demarcation and due to the pending litigation with regard to the eviction of unauthorized occupants. In pursuance to the order dated 27.07.2010 passed by the Additional District Commissioner, Kapurthala, on 25.10.2010, the Trust was able to take possession of Plot Nos.137 to 140 and the road connecting to Plot No.140 which was also under unauthorized occupation, was taken on 15.12.2015 by the Trust. Under similar circumstances, the allottee of Plot No.136 had approached this Court by way of filing **Civil Writ Petition No.15831 of 2015** titled as '*Pratibha Sehgal vs. State of Punjab*' which was disposed of by this Court on 07.09.2015 (**Annexure P-3**), by giving directions to respondent No.2-Trust to ascertain the correct facts and in case, there is no legal impediments, deliver the possession of the plot and in case any

legal obstacle is there, a reasoned order shall be passed. In terms thereof, the possession of the plot was given to the allottee. Accordingly, the petitioner sent a legal notice dated 22.09.2016 (Annexure P-4) to respondent No.2-Trust to hand over the possession of Plot No.140 in Guru Hargobind Nagar, Phagwara, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has served a legal notice dated 22.09.2016 (Annexure P-4) to respondent No.2-Trust, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, 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 legal notice dated 22.09.2016 (Annexure P-4), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

October 26, 2016
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Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No