

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 24004 of 2016

Date of Decision: 21.11.2016

Tarlochan Singh

....Petitioner.

Versus

The State of Punjab and others

...Respondents.

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

PRESENT: Mr. Harsh Manocha, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to pass the map of his plot as he had already deposited the entire amount of the plot and to pay the interest on the said amount.

2. The petitioner was owner in possession of land measuring 32 kanal 4 marlas situated in village Jamalpur Awana, Tehsil and District Ludhiana. The land in question along with the other land was acquired by the State of Haryana in the year 1973. The award was passed on 31.3.1976. As per the Government policy, an oustee was entitled to the allotment of a residential plot on preferential basis, if he has no other residential house or plot anywhere in the State. Therefore, if any of the interested persons qualifies for the allotment of the plot, he can apply to the Government at the

proper time. The entitlement of oustees for preferential allotment of plots were reiterated by the State Government even in a later policy dated 2.2.1981. In pursuance thereto, the petitioner applied for the allotment of a plot measuring 400 square yards vide application dated 26.4.1984 and also deposited a sum of ₹ 8000/-. In the list prepared by the respondents, the name of the petitioner figured at Sr. No.7. Though the petitioner had deposited the amount but the respondents made an attempt to hold the draw of lots of the plots at a reserve price of ₹ 1200/- per square yard. Accordingly, the petitioner filed Civil Suit No. 1351 dated 25.7.1992 for declaration and perpetual injunction. The said suit was decreed to the extent that the petitioner was entitled to the allotment of plot as per the state policy on preferential basis and regarding the reserve price of ₹ 127.50 paise was dismissed. Feeling aggrieved, the petitioner filed an appeal and the Additional District Judge, Ludhiana vide judgment and decree dated 27.2.1998 dismissed the appeal against which the petitioner filed RSA No.3214 of 1998. This Court vide judgment dated 17.8.2000 (Annexure P-1) allowed the appeal by modifying the judgments and decrees of the courts below to the extent that the case of the petitioner for the allotment of plot on preferential basis shall be considered by the Chief Administrator, Punjab Urban Development Authority (PUDA) along with other similarly situated allottees keeping in view the fact that the other allottees have been given plots at the rate of ₹ 85/- per square yard. However, before passing of the judgment, Annexure P-1, the PUDA had already allotted a plot measuring 100 square yards to the predecessor-in-interest of the petitioner at the rate of ₹ 2700/- per square yard. One Sukhwinder Singh filed CWP No. 15206 of 1999 seeking a direction for the allotment of a plot at the rate of ₹ 85/- per

square yard. The said writ petition was disposed of by this Court with a direction to the PUDA to consider the claim of the petitioner therein in pursuance to the 1981 Scheme. On the basis thereof, the petitioner filed CWP No. 16173 of 2000 along with aforesaid Sukhwinder Singh. This Court vide order dated 1.3.2007 (Annexure P-2) disposed of the said writ petition holding the petitioner entitled to the allotment of 400 square yard plot at the rate of ₹ 127.50 paise per square yard. Against the order, Annexure P-2, the PUDA filed Special Leave Petitions which were dismissed as withdrawn by the Supreme Court vide order dated 4.11.2008 (Annexure P-3). However, some of the petitioners in the said writ petition filed Letters Patent Appeal (LPA) No.166 of 2007 and the PUDA filed LPA No. 14 of 2009 against the judgment, Annexure P-3. This Court vide order dated 10.1.2014 (Annexure P-4) disposed of the LPA of the petitioner and others and dismissed the appeal filed by the PUDA by upholding the order, Annexure P-3 for the allotment at the rates prevailing in the year 1985-86 and the excess amount, if any, charged from the petitioners shall be refunded to them within four months and if not refunded then the petitioners were entitled to interest @ 9% per annum. Against the order, Annexure P-4, the petitioner and others filed SLPs and the Supreme Court vide order dated 23.11.2015 (Annexure P-5) dismissed the said SLPs and modified the order, Annexure P-4 to the extent that the rate of interest shall be paid @ 10% simple interest and not compound interest. Thereafter, respondent No.4 vide letter dated 29.1.2016 asked the petitioner to deposit the details of the receipts so that further necessary action could be taken. In response thereto, the petitioner moved an application to the respondents that all the requisite receipts have been deposited as per the schedule given by the office.

Respondent No.4 vide order dated 1.8.2016 (Annexure P-6) ordered the refund of the amount to the petitioner along with the prescribed calculations prepared by the respondents. The petitioner moved a representation dated 11.8.2016 (Annexure P-7) to respondent No.4 requesting 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 petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 11.8.2016 (Annexure P-7) to respondent No.4, 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.4 to take a decision on the representation dated 11.8.2016 (Annexure P-7), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

November 21, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No