

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 24618 of 2016

Date of Decision: 19.12.2016

M/s BPTP Parklands Pride Ltd. (earlier known as M/s New Age Town Planners Ltd.), New Delhi

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Hemant Saini, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the advertisements dated 19.10.2015 (Annexure P-17) and dated 21.12.2015 (Annexure P-18) vide which the Haryana Urban Development Authority (HUDA) had invited applications for the allotment of freehold residential plots in Sectors 77 and 78, Faridabad for general and reserved categories along with all consequential proceedings arising therefrom only to the extent to which they violate the terms and conditions of the Letter of Intent (LOI) dated 10.8.2011 (Annexure P-4). Further, a writ of mandamus has been sought direction the respondents to abide by the conditions of the aforesaid LOI, Annexure P-4, issued by respondent No.3 and not to carve out plots on the land in question depicted as the land to be exchanged in the layout as well as revised layout plans dated 9.12.2011 and 3.8.2012, respectively. In the alternatively, to direct respondent No.1 to pass a speaking order on the representations

(Annexures P-6, P-11, P-12, P-14, P-16, P-19 and P-20, respectively).

2. Government of Haryana issued a notification dated 14.8.2008 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 30.8.2008 (Annexure P-2) under Section 6 of the Act for acquisition of the land for the public purpose for the development and utilization of land for Master Plan Roads of Sectors 75 to 89, Faridabad. The award was passed on 27.8.2010 (Annexure P-3) regarding the acquisition of 49.525 acres of land situated at village Faridpur, Hadbast No.99, Tehsil and District Faridabad. The Directorate of Town and Country Planning, Government of Haryana, Chandigarh issued LOI dated 10.8.2011 (Annexure P-4) to the petitioner to develop a Residential Plotted Colony on the additional land measuring 50.087 acres in the revenue estate of villages Nimka, Fajjupur Majra Nikma and Faridpur, Sectors 77-78, Tehsil and District Faridabad. In compliance with the various conditions of the LOI, the petitioner submitted an undertaking along with covering letter dated 1.9.2011 (Annexure P-5 Colly) on a Non-Judicial Stamp Paper that it shall exchange the land bearing khasra No. 37//16min (4 kanal) with the HUDA. The petitioner sent a representation dated 5.12.2011 (Annexure P-6) to respondent No.2 for handing over/taking over the subject land as the Government while granting the concurrent for the grant of license had agreed “in principle” on the proposal for the exchange of the petitioner's owned land bearing khasra No. 37//16min North (4 kanal) in village Faridpur, Sector 78, Faridabad with killa No. 36//20min South (4 kanal) acquired in excess by the HUDA along with the sector dividing road. Further, the approved layout plan dated 9.12.2011 (Annexure P-7) issued to the petitioner along with License No.12 of 2012 bearing Drawing No.

DGTCP-2923 also carried a specific Clause No.20 which laid down 'the exchange of land shown with red hatch on the layout plan bearing khasra No. 37//16min (4 kanal) with HUDA'. The layout plan (Annexure P-8) of Residential Colony at Sectors 77 and 78, Faridabad was issued by the Department of Town and Country Planning. License No.12 of 2012 was granted by the Department of Town and Country Planning vide Form LC-V dated 22.2.2012 (Annexure P-9) for setting up Residential Plotted Colony on the additional land measuring 50.087 acres. The second revised layout-cum-demarcation plan dated 3.8.2012 (Annexure P-10) of Residential Plotted Colony measuring 152.973 acres was released. The petitioner made the representations dated 12.12.2012 (Annexure P-11) and dated 29.1.2013 (Annexure P-12) to respondent No.2 for handing over/taking over the land in question. Respondent No.2 vide letter dated 16.12.2013 (Annexure P-13) in continuation of its earlier letters requested respondent No.4 to examine the matter regarding the exchange of land falling in the additional area measuring 50.087 acres in the Residential Plotted Colony, Sectors 77 and 78, Faridabad and to send the report with relevant plan and other documents for taking necessary action. Thereafter, the petitioner moved a representation dated 17.1.2014 (Annexure P-14) to respondent No.2 for handing over/taking over the land in question. Again respondent No.2 vide letter dated 29.1.2014 (Annexure P-15) asked respondent No.4 to examine the matter and to send the recommendation along with relevant plan and other documents for taking further necessary action. A representation dated 14.3.2014 (Annexure P-16) was submitted by the petitioner to respondent No.2 for handing over/taking over the land in question. The HUDA vide advertisement dated 19.10.2015 (Annexure P-17) invited applications for

freehold residential plots in Sectors 77 and 78, Faridabad for the general category carving out plots on land to be exchanged with the land of the petitioner. Vide advertisement dated 21.12.2015 (Annexure P-18), the HUDA invited applications for freehold residential plots in Sectors 77 and 78, Faridabad for the reserve categories only. Accordingly, the petitioner moved the representations dated 16.9.2016 (Annexure P-19) and dated 3.10.2016 (Annexure P-20) to respondent No.2 for exchange of HUDA's acquired land with the company's licensed land falling in Residential Plotted Colony, measuring 50.087 acres, 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 the representations dated 16.9.2016 (Annexure P-19) and dated 3.10.2016 (Annexure P-20) to respondent No.2, 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 16.9.2016 (Annexure P-19), 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

December 19, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No