

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 9472 of 2016

Date of Decision: 11.7.2016

Ram Chand General Power of Attorney of Dharamjit

....Petitioner.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

PRESENT: Mr. Sanjiv Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus directing the respondents to transfer residential Plot No. 1040-P, Sector 13-17, Panipat, in the name of person to which he is willing to transfer in view of order dated 4.4.2016 (Annexure P-14) passed by this Court in CWP No. 6684 of 2014 for which the petitioner had already made a representation dated 9.12.2015 (Annexure P-13).

2. Haryana Urban Development Authority (HUDA) framed a policy dated 10.9.1987 (Annexure P-1) which was amended by the respondents from time to time vide policies, Annexures P-2 to P-7,

respectively. As per the said policies, the land owners whose land had compulsorily been acquired by the HUDA, were entitled to allotment of a residential plot under oustees categories as per their land holdings. All the co-sharers were entitled to allotment of a separate residential plot as per their land holdings as per oustees policy, Annexure P-1 and subsequently policies, Annexures P-2 and P-3, respectively. Later on, vide policy dated 12.3.1993 (Annexure P-4), the said policies were amended to the extent that the benefit under oustees policy shall be restricted to one plot according to the size of the holding irrespective of the number of co-sharers in the acquired land. Subsequently, vide policy dated 23.3.2006 (Annexure P-6), a clarification was added to the policy, Annexure P-4, to the effect that in case one or more co-sharers makes an application in their individual name (s) then the co-sharers shall have to submit 'No Objection Certificate' from other co-sharer(s) along with the application. The land measuring 11 bigha 11 biswa of the petitioner and his co-sharers situated within the revenue estate of Patti Taraf Insar, Tehsil and District Panipat, as per jamabandi for the year 1988-89 (Annexure P-8) was acquired by the State of Haryana vide notification dated 23.2.1989 issued under Section 4 of the Land Acquisition Act, 1894. The award was passed on 21.2.1992. After acquisition of the land in question, the HUDA offered residential plots to the petitioners and other co-sharers who applied for allotment of plot of 250 square yards each. The draw of lots was held in the year 2006 and the petitioner and his co-sharers were jointly allotted 1 kanal plot. Vide letter dated 1.5.2007 (Annexure P-9), the petitioner and his co-sharers were asked to deposit 25% amount of the total tentative cost of the plot. On doing so, the petitioner and his co-sharers were issued allotment letter dated 7.11.2008 (Annexure

P-10). This Court vide order dated 26.4.2012 (Annexure P-11) passed in CWP No. 10941 of 2010 directed the HUDA to make allotment of a plot to each and every co-sharers according to their entitlement. Against the order, Annexure P-12, the State of Haryana filed SLP No. 13375 of 2013 which was dismissed by the Apex Court vide order dated 24.11.2015 (Annexure P-12). The petitioner moved a representation dated 9.12.2015 (Annexure P-13) to respondent No.4 for transfer of Plot No. 1040-P, Sector 13-17, Panipat in the name of Smt. Sudesh and to file the application moved by Parminder Singh, 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 9.12.2015 (Annexure P-13) 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 9.12.2015 (Annexure P-13), 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

July 11, 2016
gbs

(RAMENDRA JAIN)
JUDGE