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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-1275-2010 (O&M)
Date of decision : 21.01.2016**

Punjab Urban Planning and Development Authority, Bathinda and
another

...Appellants

Versus

Tara Singh Mann and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Balwinder Singh, Advocate
for the appellants.

Mr. G.S. Attariwala, Advocate
for respondent Nos.1, 3, 6 to 11, 13, 15 to 25,
30, 36 to 39, 41, 42, 44 to 46,
50, 51, 53, 55, 60, 66, 70 to 72, 76,
78, 81, 82, 86, 90, 92, 93, 98 to 102 and 105.

Mr. Binderjit Singh, Advocate
for respondents No.14, 54, 57, 65, 73,
77, 80, 84 and 94.

1. Whether reporters of 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?

AMIT RAWAL, J. (ORAL)

The appellants are aggrieved of the judgment and decree
rendered by the lower Appellate Court whereby, it has been directed

to comply with the certain directions/procedures before raising the demand of enhancement against the allottees/subsequent transferees.

Mr. Balwinder Singh, learned counsel appearing on behalf of the appellants submits that the trial Court on the basis of the oral and documentary evidence dismissed the suit and found that PUDA had not acted as per the terms and conditions of Clause (IV) of the allotment letter as it was specifically provided therein that price of plot was tentative and subject to change as and when, there is enhancement. Since, the land on which plots have been carved out and subject matter of the appeal, the compensation awarded by the Collector has been enhanced, accordingly, the demand claiming a sum of ₹ 21.50 per sq. yard was raised. There cannot be any illegality and perversity as the action of PUDA is strictly as per the terms and conditions of the allotment letter. This fact has not been totally noticed by the lower Appellate Court, thus, there is a illegality and perversity, much less, substantial questions of law arises for determination.

Mr. G.S. Attariwala and Mr. Binder Singh, learned counsel appearing on behalf of the respondent(s), submits that the judgment and decree of the lower Appellate Court is most innocuous inasmuch as PUDA has been directed to comply with the directions contained in the judgment rendered by this Court holding therein that as and when, demand of the enhancement received by the Developing Authority, it is required to give the particulars of the

amount received i.e. the details and as well as permitting the inspection of the record, however, the demand did not envisage the particulars and therefore, rightly so, the suit has been decreed with the certain directions and prays for dismissal of the matter.

I have heard the learned counsel for the parties and appraised the paper-book.

The operative of the judgment rendered by the lower Appellate Court reads thus:-

"15. Further reliance has been placed on 2000, HRR, 744, Nisha and others Vs. State of Punjab and others, in which, our Hon'ble High Court, has observed the following criteria to be adopted by the respondents department, as follows:

- I. Particulars of the award enhancing compensation should be disclosed;*
- II. Inspection of records may be allowed to the applicants;*
- III. Petitioners will be free to raise legal plea including estoppels before the corporation.*
- IV. Petitioners may be granted opportunity of personal hearing, if so required.*
- V. Corporations shall pass a speaking order regarding acceptance or non acceptance of claim regarding payment of enhanced price.*
- VI. Order passed by corporation must be communicated to individual petitioner before demand of enhanced price.*

16. Perusal of record shows that in the present case the criteria laid down by the Hon'ble High Court has not been followed by the respondents and it has been consistently held that natural justice demands that if any order is

passed without notice to the parties interested, the same is void and not voidable one. The learned counsel for the respondents vehemently contended that respondents departments has acted as per clause No.4 of the agreement Ex.P1, but as discussed above, mandatory procedure laid down by the our Hon'ble High Court has not been followed prior to issuance of the impugned notice and learned trial Court has not relied upon the law laid down by our Hon'ble High Court on these issues. Hence, the findings of the learned trial Court on all these issues are hereby reversed."

I am of the view that impugned demand of enhancement raised by PUDA by invoking the provisions of Clause (IV) of the allotment letter (Ex.P1), is not in consonance with the directions noticed above. The demand is lacking reasons as every allottee/transferee is within his right to ascertain the exact calculation, rightly so, developing authority has been directed to follow the same. Since, the judgment and decree of the lower Appellate Court was not stayed, yet PUDA till date, has not initiated any step during the pendency of the regular second appeal.

Keeping in view the aforementioned observations, I am of the view that no prejudice would be caused to the appellant-PUDA to comply with the directions as noticed above.

Resultantly, I do not find any illegality and perversity in the findings rendered by the lower Appellate Court, much less, no substantial questions of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

PUDA had a liberty to comply with the directions contained in the judgment and decree rendered by the lower Appellate Court.

21.01.2016
yogesh

(AMIT RAWAL)
JUDGE