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

CWP-14390-2014

Date of decision : 03.05.2017

Pawan Kataria and others

... Petitioner(s)

Versus

The Chief Settlement Commissioner, Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.P. Bhandari, Advocate
for the petitioners.

Mr. Indresh Goel, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court with the following
relief:-

"Civil Writ Petition under Article 226 and 227 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondents to allot the adjacent strip of land which is in possession of the petitioners from a very long period, as similar types of adjacent strips of lands have already been ordered to be allotted to similarly situated persons and this Hon'ble High Court have decide the matter LPA No.689 of 1992 for allotment @ ₹ 500/- per sq. yards along with interest.

OR

Any other order, writ or direction as may be deemed fit in the facts and circumstances of the case."

The stand of the respondent(s)/State in paragraph 4 of the written statement reads as under:-

"4. That the land involved in these cases is governed under the provisions of the Haryana Evacuee Properties (Management and Disposal) Act, 2008 and Amended Act, 2010 and the Haryana Evacuee Properties (Management and Disposal) Rules, 2011 for the disposal of evacuee rural/urban lands/properties. Under Rule 10 of the said Rules, an occupant or his successor-in-interest, who has been in possession of the same from First January, 2001 or either could apply to the Tehsildar concerned along with relevant documents in support of his claim within a period of six months from the date of notification of these rules or the date subsequently fixed by the State Government from time to time for transfer of the land in question on the price fixed by the Government. The applicant is to prove continuous and undisputed possession from First January, 2001 or earlier and if, the applicant is found eligible for transfer of the property, then the Tehsildar (Sales) is to pass a speaking order for transfer of property at the market price as defined in Sub-Rule (3) of Rule 8, subject to approval by the Commissioner (Sales). The relevant Rule is reproduced as under:-

"8 (3) – Market price of the land shall be the current market price which shall be the average price in respect of a similar land on the basis of sale transactions in concerned revenue estate or locality or area or its vicinity during the preceding one year or the collector rate determine by the Deputy Commissioner concerned for similar category of land in same revenue estate or locality or area or its vicinity, whichever is higher"

It is pertinent to mention that out of 12 petitioners, only petitioner Nos.1, 7 and 8 have submitted applications to

purchase the land under their possession to the Tehsildar (Sales) Faridabad under the Haryana Evacuee Properties (Management and Disposal) Rules, 2011. These cases of the petitioner Nos.1, 7 & 8 are under process in the office of Tehsildar (Sales) Faridabad. Thus, the petitioners have no cause of action to file the present writ petition. If the petitioners are/were aggrieved against the orders of Tehsildar (Sales)/Commissioner (Sales), they could approach to the Chief Commissioner (Sales)/Commissioner of the Division concerned under "The Haryana Evacuee Properties (Management and Disposal) Act, 2008" as Amended Act, 2010 instead of filing the present writ petition before this Hon'ble Court and thus, the present writ petition deserves to be dismissed being premature."

Mr. A.P. Bhandari, learned counsel appearing on behalf of the petitioners has relied upon the *ratio decidendi* culled out by the Division Bench of this Court in **LPA No.698 of 1992** decided on 23.01.2014, with regard to the fixing of rate @ 500/- per sq. yards of the land allotted to the similarly situated persons i.e. adjacent strips of lands, in which, they are in possession.

Keeping in view the aforementioned facts, I am of the view that since the respondent(s) have yet not considered the applications of the petitioner Nos.1, 7 & 8, I deem it appropriate to dispose of the present writ petition with the direction to the respondent(s) to decide the applications of the petitioner Nos.1, 7 & 8, which, according to them, is under process in the office of Tehsildar (Sales), Faridabad, for allotment of the strip of land adjacent to their lands. In case the petitioner Nos.1, 7 and 8 are held to be entitled for allotment in view of the stands taken in the applications, since the rate has already been fixed, the same may be allotted

i.e. @ ₹ 500/- per sq. yards along with interest @ 9% p.a., in view of the *ratio decidendi* culled out in the judgment cited supra by the Division Bench of this Court.

Let this exercise be done within a period of four months from the date of the receipt of the certified copy of this order.

Disposed of, accordingly.

03.05.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓
Whether speaking/reasoned Yes/ No
✓
Whether Reportable Yes/ No