

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

CWP No. 17912 of 2015 (O&M)

Date of decision: 21.3.2017

Smt. Sharda Sharma

.. Petitioner

VS

State of Punjab and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Arun Gosain, Advocate, for the petitioner.
Mr. P. S. Bajwa, Additional Advocate General, Punjab.
Mr. J. S. Toor, Advocate, for respondent no.3.

Rajesh Bindal, J.

The petitioner has filed the present petition seeking a direction to the respondents to frame re-housing scheme as provided under Section 26 of the Punjab Town Improvement Act, 1922 (for short, 'the Act').

Learned counsel for the petitioner submitted that the property owned by the petitioner was acquired under the provisions of the Act for the development scheme of 3.03 acres known as 'Durgiana Mandir Complex', for which notices were published on 9.5.2005, 16.5.2005 and 23.5.2005. The award was announced on 21.5.2008 by the Land Acquisition Collector, Amritsar Improvement Trust, Amritsar. In terms of provisions of Section 26 of the Act, the Improvement Trust is required to frame a scheme for re-housing of the oustees. Section 27 of the Act provides that unless alternative accommodation is provided to the house owners, who are likely to be

displaced, the scheme cannot be put into execution. In the case in hand, the property owned by the petitioner was being used as a shop as well as for residence. The respondents are bound to provide residential accommodation to the petitioner, for which she has already applied in terms of provisions of the rules.

On the other hand, learned counsel for the respondents submitted that earlier also number of writ petitions were filed claiming alternative accommodation for oustees, which were disposed of by a common order dated 21.12.2011 passed by this Court in CWP No. 9557 of 2010 Nalanda Elementary School and another vs State of Punjab and others, wherein validity of the scheme prepared for allotment of the shops to the oustees, was upheld.

In the case in hand, shop measuring 1664 square feet owned by the petitioner was acquired and against that a shop measuring 68 square feet, in the developed shopping complex constructed for the oustees, has been allotted to her. The area where the acquisition was carried out was a commercial area. Merely because, the petitioner may be using first floor thereof as residence, will not entitle her for allotment of a shop as well as the residential plot/house. All the oustees have been allotted shops. The scheme as is sought to be framed is already existing in the form of rules. Even in terms thereof, the petitioner is not eligible.

After hearing learned counsel for the parties, we do not find any reason to interfere in the present writ petition. For beautification of the Town a development scheme of 3.03 acres known as 'Durgiana Mandir Complex', was framed and the acquisition was carried out. In pursuance to the acquisition, number of shops were demolished. The owners were

allotted shops in the alternative developed market closeby. The petitioner has admittedly been allotted a shop measuring 68 square feet in that market. Once in terms of the provisions of the Act, a policy for the oustees, which was applicable uniformly to all the persons, a shop has already been allotted to the petitioner, merely because first and/or second floor of the shop in her possession, she was using as residence, will not entitle her additional space for the purpose of residence.

For the reasons mentioned above, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

21.3.2017
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No