

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.270 of 2018

Date of decision:21.02.2018

Administrator, HUDA, Gurugram and another ... Petitioners

Vs.

Ram Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pritam Singh Saini, Advocate
for the petitioners.

Mr. Aditya Yadav, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

The petitioners-HUDA are in revision petition against the impugned orders dated 18.03.2017 (Annexure P-3) and 29.04.2017 (Annexure P-4), passed by the Executing Court, vide which salary of the Administrator of HUDA/Estate Officers of Gurugram and Rewari, was ordered to be attached.

Mr. Pritam Saini, learned counsel for the petitioners submitted that land measuring 7 marlas belonging to the respondent situated in village Chandpur, Tehsil and District Rewari was acquired. As per the policy in vogue, all the oustees, whose land had been acquired for the purpose of residential were entitled to allotment of residential house as per their holding. The respondent-plaintiff instituted a suit seeking declaration for

allotment of plot in his name owing to acquisition of the plot. The said suit was decreed by the trial Court, vide judgment and decree dated 09.12.2014, wherein, the petitioner-defendants were directed to consider the case of plaintiff sympathetically and allot a plot as per his entitlement under law. The execution application was filed on 05.03.2015 vide case No.11 and the trial Court, vide order dated 18.03.2017 by noticing the objections of the petitioner/judgment debtors /defendants directed them to allot a plot to the decree-holder as per his entitlement, in view of the directions given in the judgment dated 09.12.2014 with a caveat that in case, the aforementioned direction was not complied with, the Court would be constrained to take action against the petitioners.

He further submitted that the Executing Court was apprised of the proceedings of the meeting of screening committee pertaining to the settlement of oustees claim, i.e. respondent-plaintiff held on 07.02.2017 in Gurugram under the chairmanship of Administrator, HUDA Gurugram and in the aforementioned decision, it was held that the respondent-plaintiff be advised to apply for allotment of plot in the fresh advertisement which would be issued after determination of reservation but the trial Court did not take into consideration the aforementioned proceedings. Since the order dated 18.03.2017 was not complied with, the Executing Court, vide order dated 29.04.2017 (Annexure P-4) issued a show cause notice to JD Nos.1 and 2 as to why coercive measures be not initiated against them, even the salary of JD Nos.1 and 2 was ordered to be attached till the compliance of the directions contained in the order dated 18.03.2017.

He also submitted that the controversy with regard to entitlement/allotment to the oustees had been under litigation which was finally decided by a Full Bench of this Court in **CWP No.22252 of 2016 titled as Rajiv Manchanda and others Vs. Haryana Urban Development Authority and others, on 22.11.2017**, wherein, while considering the policy of HUDA, the Court formed an opinion that oustees are entitled to plot when the application had been submitted, i.e., from that date and rates which were prevalent at the time of submission of the applications, would be applicable, i.e., not the market rate or the rate when the advertisement was published. As per the directions contained in the order, the department is contemplating to come out with an advertisement by inviting the applications from such eligible oustees who had already submitted the applications or otherwise.

After ascertaining the availability of plots under the aforementioned category in the entire State of Haryana, on instructions from the department, Mr. Saini, submitted that the said process would be completed within a period of six months. He also submitted that deposit made by the respondent/decreed holder shall be considered at the time when an application is submitted, only thing is required to indicate regarding the previous deposit and attach receipt thereof. The same shall be considered for the purpose of allotment and decreed-holder would not be considered ineligible for want of 10% of the amount.

In view of such statement and undertaking given to this Court, I deem it appropriate that the directions contained in the order dated 22.11.2017 passed in CWP No.22252 of 2016 and in the judgment and decree dated 09.12.2014 of the trial Court be complied with in letter and spirit, much less contemplated to be followed honestly and sincerely. It would not be in the fitness of things to continue with the impugned orders, whereby, the salary of JD Nos.1 and 2 has been attached.

Resultantly, impugned orders dated 18.03.2017 (Annexure P-3) and 29.04.2017 (Annexure P-4), are hereby set aside and revision petition is disposed of, in view of the undertaking given, that HUDA in pursuance to the directions contained in the order dated 22.11.2017 which shall cause an advertisement inviting the application of the eligible oustees who had already submitted their applications and as well as fresh applications. Since the respondent-decree holder has already a decree in his favour, deposited of 10% of the amount for the area he is eligible for, it would not be necessary for him to deposit earnest money except to give particulars by attaching the receipt which shall be considered strictly as per law.

Revision petition stands disposed of in the aforementioned terms.

(AMIT RAWAL)
JUDGE

February 21, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No