

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

**CR-5338 of 2016(O&M)
Date of decision : 14.5.2018**

Mahant Narain Puri

..... Petitioner

VERSUS

Improvement Trust, Ludhiana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Jain, Senior Advocate with
Mr.Manvir Singh Rana, Advocate for the petitioner.
Ms.Kavita Arora, Advocate for respondent No.1.

AMIT RAWAL, J.

This revision petition is directed by the petitioner-decree holder against the order dated 2.7.2016 whereby an objection filed by the Improvement Trust has been allowed.

Mr.Arun Jain, learned Senior Advocate assisted by Mr.Manvir Singh Rana, Advocate for the petitioner submitted that the petitioner-plaintiff instituted a suit claiming declaration that he being the Local Displaced Person (for short, `the LDP`) within the definition of The Ludhiana Improvement Trust Land Disposal Rules, 1964 (for short, `the Rules`) was entitled to the allotment of plot measuring 500 square yards in lieu of the acquisition of land measuring

approximately 70 bighas with consequential relief of mandatory injunction directing the Improvement Trust to allot the plot measuring 500 square yards and to deliver the possession of the same.

The suit was decreed by the trial Court vide judgment and decree dated 16.1.2006. An execution application filed thereto. However, the executing Court adjourned sine-die the execution application on the premise that case of the parties lis was governed by the matter pending before the Full Bench of this Court in CWP No.2575 of 2009 titled as Jarnail Singh and others v. State of Punjab and others. It was submitted that the aforementioned case pertains to the allotment of land to the oustees and not to the LDP as the aforementioned Rules envisaged allotment of land to the LDPs. In support of the aforesaid argument, attention of this Court was drawn to an affidavit, Annexure P.5, filed by the Improvement Trust in one of the matters, i.e. CWP No.13592 of 2015, titled as Jaspal Singh v. State of Punjab and others, wherein, the Improvement Trust endorsed the view expressed by the petitioner with regard to the policy for the allotment of land to LDPs by the Improvement Trust as per the Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983.

Thus, it was submitted that the impugned order may be set aside.

Ms.Kavita Arora, learned counsel appearing for respondent No.1 submitted that no cause of action arose to the petitioner, inasmuch as, nothing prevented the petitioner to seek the revival of the execution application as liberty was granted, however, no application for revival was filed. Thus, it was submitted that the present revision petition may be dismissed.

I have heard the learned counsel for the parties.

The pith and substance of the order under challenge vide which the objection of the improvement trust has been allowed is on the ground that the matter between the parties was to be governed by the policy of the State Government which was published in the Punjab Government Gazette on 15th December, 2005 for the allotment of land to LDPs or the matter pending before the Full Bench of this Court in CWP No.2575 of 2009 titled as Jarnail Singh and others v. State of Punjab and others for the allotment of land to the oustees. For the sake of brevity, para 5 of the affidavit, Annexure P.5, is reproduced as under:

"That it is humbly submitted that the respondents already have a policy with regard to allotment of

land to local displaced persons by Improvement Trusts in the State, which is applicable in the whole of the State. It is submitted that following provision in sub-rule (2) of rule 4 of the Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983 has been made vide notification No.GSR 36/P.A.4/22/S 73/Amd (3)/2005, published in the Punjab Government Gazette on 15th December, 2005:-

"(2) A local displaced person shall be allotted a residential plot on reserve sale price in accordance with the following criteria, provided he applies for such allotment in form 'A' within a period of three years from the date of taking over the possession of the entire land acquired by the Trust along with an affidavit to the effect that he does not own any residential house in his/her name or in the name of his /her spouse in the area falling under the Trust:-

(a) If the area of land acquired is not less than half acre and is not more than three acres.

-100 sq. yds.

(b) If the area of land acquired exceeds three acres, but does not exceed five acres

-200 sq. yds.

(c) If the area of land acquired exceeds five acres

-500 sq. yds.

Provided that the local displaced persons having a joint khata being co-sharers shall be allotted only one plot taking into account the whole of their joint land acquired."

This fact has not been disputed by learned counsel appearing for the Improvement Trust.

In my considered opinion, the executing Court did not take into consideration the difference between the expression of "oustee" and "LDPs".

The matter pending before the Full Bench of this Court in CWP No.2575 of 2009 titled as Jarnail Singh and others v. State of Punjab and others pertains to the allotment of land to the oustees is not applicable in the instant case. For the reasons aforementioned, the impugned order is set aside. The matter is remanded back to the executing Court to decide the application which was adjourned sine-die, in accordance with law and the order

dated 13.2.2017, whereby one of the plots has been ordered to be reserved shall continue till the decision of the execution application.

This Court is sanguine of the fact that since the interim protection has been granted, the executing Court shall expedite adjudication of the execution application.

May 14, 2018
KD

(AMIT RAWAL)
JUDGE

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes / No