

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

**CR-732-2016 (O&M)
Date of Decision: 16.11.2018**

Vishal Bandhu Gupta Through its LR's and others

...Petitioners

Versus

Haryana Urban Development Authority and another

...Respondents

Coram: Hon'ble Mr. Justice Raj Mohan Singh

Present: Mr. Nitin Jain, Advocate
 for the petitioners.

Mr. B.R. Mahajan, Sr. Advocate with
Mr. Anil Chawla, Advocate

RAJ MOHAN SINGH, J. (ORAL)

The execution filed by the petitioners was disposed of vide the impugned order dated 21.08.2013 by passing the following operative order in Para No.7:-

“Perusal of application for execution of decree dated 12.12.2005 shows that almost same pleas have been taken by the applicants which have been by them in the application under Section 151 & 152 CPC for correction of judgment and decree dated 12.12.2005. Objection to this application have also been filed. In view of the findings given above in the application under Section 151 & 152 CPC for correction of judgment and decree dated 12.12.2005. It is observed that the application for execution of decree cannot be allowed as the decree is not executable as there is no residential plot of 250 sq. yards in City Centre, Section 10, Kurukshetra. Accordingly the application for execution of decree filed by applicants-decree holders is also dismissed. File be consigned to record room after due compliance”.

The suit for declaration and mandatory injunction filed by the petitioners was decreed up to the High Court in RSA No. 525 of 2008. The aforesaid RSA was disposed of in the light of judgment

dated 25.04.2012 passed in LPA No. 2096 of 2011 titled as **Haryana Urban Development Authority and another Vs. Sandeep Singh and others** where a detailed guidelines were laid down in respect of allotment of plots to oustees of acquired land by HUDA. The appeal filed by **Haryana Urban Development Authority and another** was disposed of in terms of judgment rendered in **Sandeep Singh and others case (supra)** vide order dated 31.05.2012. The execution in which impugned order was passed appears to be not in consonance with the order passed in aforesaid RSA.

Learned counsel for the petitioners submits that liberty be granted to the petitioners to file separate execution in respect of plots available in the adjoining Sectors of Sector-10, Kurukshetra. The aforesaid assertion has been refuted by Learned Advocate General assisted by Sh. Anil Chawla, Advocate on the ground that while disposing of **Sandeep Singh's case (supra)** following guidelines were laid down by the LPA Bench. For ready reference, the guidelines contained in the aforesaid decision are reproduced here as under:-

- “(i) That date of notification under Section 4 of the Land Acquisition Act, 1984 is relevant to determine the eligibility of a land-owner for allotment of a residential plot, even if the acquisition is for the purposes of commercial, industrial or institutional;
- (ii) That the entitlement of the size of the plot and the procedure for allotment shall be as on the date of allotment in pursuance of an advertisement issued inviting application form the oustees;
- (iii) That the HUDA or such other authority can reserve plots up to 50% of the total plots available for all reserved categories including that of oustees. As to what extent

there would be reservation for the oustees, is required to be decided by the State Government and/or by HUDA or any other authority, who is entitled to acquire land.

(iv) That the oustees are entitled to apply for allotment of plot alongwith earnest money in pursuance of public advertisement issued may be inviting applications from the general public and the oustees through one advertisement. If an oustees is not successful, he/she can apply again and again till such time, the plots are available for the oustees in the sector for which land was acquired for residential/commercial purposes or in the adjoining sector, if the land acquired was for institutional and industrial purposes etc. The plots to the oustees shall be allotted only by public advertisement and not on the basis of any application submitted by an oustee;

(v) That the price to be charged from an allottee shall be the price mentioned in the public advertisement in pursuance of which, the plot is allotted and not when the sector is floated for sale for the first time;

(vi) That the State Government or the acquiring authority shall not advertise any residential plot for sale without conducting an exercise in respect of plots ear-marked for reserved categories and after identification of the plots available for the oustees in each sector. Thereafter, the State Government or the acquiring authority shall publish an advertisement inviting applications from such oustees to apply for allotment of plots in accordance with law;and

(vii) If in any sector, more than 50% plots have been allotted by way of reservation including to the oustees, then such allotment shall not be cancelled or reviewed in view of the judgment of this court”.

Learned Advocate General also submitted that in pursuance of the directions the advertisements have already been issued and the 19.12.2018 is the last date for submitting the application.

Perusal of guideline No. 3 would show that HUDA can reserve up to 50% of the total plots available for all reserved categories including that of oustees. It was left to the authority to decide extent of reservation for the oustees quota. In guideline No. 4, the oustees were held entitled to apply for allotment of plot alongwith earnest money in pursuance of public advertisements issued by the authority.

Learned Advocate General has apprised this court that reservation to the tune of 12% has been fixed for oustees quota by decision dated 04.12.2015. The ratio of **Sandeep Singh's case** (supra) was also tested before the Full Bench of this Court in **Rajiv Manchanda and others Vs. HUDA and another 2018 (2) PLR 422**. The applicability of said judgment may not be relevant for this revision petition but the fact remains that RSA No. 525 of 2008 was disposed of in the light of **Sandeep Singh's case** (supra). The guidelines laid down in **Sandeep Singh's case** (supra) would form part of decree in the aforesaid RSA. As per conditions No. 3 and 4, the petitioners can apply as per their candidature as oustees within the quota prescribed by the State vide order dated 04.12.2015. In a way the decree granted by the courts below was modified by RSA Bench to the extent of applying guidelines of **Sandeep Singh's case** (supra) to the case of the petitioners. If so advised, petitioners can apply as per the guidelines laid down in **Sandeep Singh's case (supra)**. In case the petitioners wishes to file any such execution in respect of plot available in adjoining Sectors to Sector-10, Kurukshetra, the guidelines framed in **Sandeep Singh's case (supra)** would be adhered to while disposing of such execution.

Learned counsel for the petitioners also referred to Para No.10 of the affidavit filed by the Estate Officer, HSVP, Kurukshetra in the context of the entitlement to apply for plot in oustees quota in the adjoining Sector-7, Kurukshetra against the advertisements.

This aspects shall also be taken into consideration that if petitioners wish to file any execution, than the same shall be decided in accordance with law.

16.11.2018
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No