

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

CWP No.1904 of 1999

Date of Decision: August 14, 2018

Mal Singh

..... Petitioner

Versus

State of Punjab & Anr.

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Chetan Bansal, Advocate for the Petitioner.

Mr. Sandeep Virmani, Addl. A.G. Punjab.

Mr. Sandeep Khunger, Advocate for Respondent No.2.

SUDIP AHLUWALIA, J.

The petitioner seeks quashing of the letter/Memo No.LIT/SB 6386 dated 11.12.1998 (Annexure P/5) as well as Memo No.5/245/95-2LGII/6195 dated 2nd May 1995 (Annexure P/6), with a further prayer for a Writ in the nature of mandamus directing the Respondent No.2 to transfer ownership of Plot No. 24 –B, Raj Guru Nagar, Ludhiana in his favour.

2. It may be mentioned that originally, the Petitioner had prayed for a direction upon the said respondent to transfer ownership of the aforesaid Plot in his favour *simpliciter*, but after the respondents contested his claim by filing the reply in which they relied upon the Memo No. LIT/SB dated

11/12/1998 (Annexure P/5), which itself was based upon the Memo No. 5/245/95– 2LGII/6195 dated 2nd May 1995 (Annexure P/6), the Petitioner prayed for amendment of the original writ petition, which was allowed by this Court on 12/01/2015.

3. His case is that one Smt. Maya Devi was the owner to the extent of 1/4th share in the land measuring 10B-4B-15B, more fully described in Para 2 of the Writ Petition, situated at Village Gill, Ludhiana, which was acquired by the Respondent No. 2 (Ludhiana Improvement Trust) for the execution of development Scheme called Model Town Extension Part II Scheme. Being a Local Displaced Person, the said Maya Devi was allotted the disputed plot measuring 500 Square Yards for a total sum of Rs.1,00,500/- at the rate of Rs. 201/-per Square Yard, as provided under the Utilization of Land and Allotment of Plots by the Improvement Trust Rules, 1975. Smt. Maya Devi accordingly deposited the whole of the aforesaid amount with the Trust, and thereafter sold the Plot in question in favour of the Petitioner. Subsequently on the basis of the application submitted by Smt. Maya Devi, and on perusal of other documents, vide letter dated 4th April 1991 (Annexure P/2), the Plot was ordered to be transferred by the Ludhiana Improvement Trust. The Petitioner then repeatedly requested the Respondent No.2 in writing on 16/10/1996, 15/04/1998 and 12/05/1998 to execute the sale deed in his favour, but no heed was paid to his said requests. Thereafter on 24/08/1998, the Ludhiana Improvement Trust sent him a letter (Annexure P/4) demanding an additional amount Rs.5,24,500/- as the raised price of the Plot, which was followed by the next demand letter

dated 11/12/1998 (Annexure P/5) in which the aforesaid additional demand was explained by stating that the Plot in question had been allotted against a joint Khata under the Ludhiana Improvement Trust Land Disposal Rules, 1964, whereas under the Punjab Town (Utilization of Land and Allotment of Plots) Rules, 1983, only one Plot can be allotted against a Joint Khata. The Petitioner was therefore, constrained to approach this Court with the present Writ Petition.

4. The Writ Petition was admitted by this Court on 11.2.1999 and the realization of the additional price was ordered to be stayed on that date with the following conditions -

- i) The petitioner shall, within one month from today, deposit 50% of the demand created by the Improvement Trust. If the writ petition is allowed, that amount shall be refunded to the petitioner with interest at the rate of 18% per annum.*
- ii) If the petition is dismissed, petitioner shall have to deposit the remaining amount with interest at the rate of 18% per annum from the date of demand.*

5. The Respondents have opposed the Petitioner's prayer by contending that allotment of the disputed plot in favour of Maya Devi herself was irregular/illegal, inasmuch as it was done by the then Chairman of the Trust without following the prescribed procedure of inviting applications from other eligible persons, and without any Resolution authorizing the Chairman himself to make the allotment.

6. Consequently, there were complaints against the concerned Chairman/Official of the Improvement Trust about the commission of grave

irregularities in the matter of allotment of plots to the Local Displaced Persons were made, after which the Government stayed the allotment of those plots till formulation of the Policy Guidelines in that behalf. The final directions were thereafter conveyed to the Improvement Trust of Ludhiana and Amritsar vide the Impugned Memo dated 2.5.1995 (Annexure P/6) in which as many as 413 cases of actual allotments were dealt with in Annexures-A to F of the said Memo, while another 641 cases were dealt with in Annexures-G and H pertaining to the pending applications for similar allotment concerning Ludhiana.

7. It is also the categorical case of the Respondents that apart from allotment itself being illegal and irregular, even otherwise there was foul play imputable to the allottee Smt. Maya Devi by way of having some how struck out artificially the standard printed Condition No.14 in the original Agreement for Sale which would have restrained her from selling or alienating the allotted plot, apparently with the collusion of some employee (s) of the Ludhiana Improvement Trust.

8. After hearing submissions of Ld. Counsel for both the sides and having perused the available material on record, we find no reason to grant the prayer of the Petitioner as made in this Writ Petition. There can be no denial that allotment in favour of Maya Devi was visibly tainted and in violation of the prescribed procedure. The concerned Chairman of the Improvement Trust at the relevant time appears to have indulged in wholesale allotment of such plots at his own level without following the established procedure under the Rules. That in itself could have been a

ground to cancel the allotments by the Superior Authorities/Government. However, considering the huge number of instances regarding the irregularities/illegalities in the matter of allotment of plots for Locally Displaced Persons in the Districts of Ludhiana and Amritsar, purely as a one time measure, the Government vide its impugned Memo (Annexure P/6) directed regularization of the various allotments as well as cancellation of the same. The case of the disputed Plot No.24-B is covered in directions/guidelines Nos. (ii) and (iii) of the aforesaid Memo, which are set out as below -

ii) In 139 cases detailed at Annexure 'B', allotment though made to the eligible Local Displaced Persons, suffer from procedural irregularities, such as late receipt of application, non receipt of earnest money, change of scheme for allotment of plot and allotment of not being backed by resolution of the Trust. It has been decided to condone the irregularities as a onetime measure in view of the fact that these Local Displaced Persons were eligible for allotment of plots and the Trust had vide their resolution No.355, dated 27.10.89 delegated the powers of allotment of plots to the Chairman. Payment/balance payment may be accepted and documents executed with respect to these allotments. However, this decision will not be a precedent for dealing with other cases of this nature in future.

iii) In 43 cases, more than one plot has been allotted against a Joint-Khata. These allotments have been made under "The Ludhiana Improvement Trust Land Disposal Rules, 1964", which are ambiguous on this point. Under the Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983 which are operative now, only one plot can be allotted against a joint khata. Therefore, these allotments are not in

accordance with the rules and deserve to be cancelled by following the procedure as laid down under the rules. However, it has been noted that in cases, as detailed in Annexure 'C' where payments have been fully/partly made agreements etc. have also been executed and possession have also been delivered, in such cases cancellation though technically right would only be a paper cancellation and lead prolonged litigation. As a onetime measure, such cases of allotments of more than one plot to joint khata holder where possession has been delivered, payments have been fully or partly accepted and the agreements etc. has been entered into, allottee may be given an offer to have allotment regularized and payment of market price prevailing on the date of allotment, which would be assessed by the Deputy Commissioner. This is only a onetime measure and will not be a precedent for dealing with other cases of this nature in future. In the remaining cases, where no payment has been made nor any document has been executed nor possession delivered the allotments may be cancelled by following procedure as laid down under the rules.”

(Emphasis added)

9. In this view of the matter, we find that the allottee has been dealt with rather leniently by way of permitting regularization of the allotted plot and payment of the market price prevalent on the date of allotment, which was directed to be assessed by the Deputy Commissioner. The approach adopted by the Government can thus not be faulted, not at least by the Petitioner who happens to be the second purchaser of a plot, of which the legality of the original allotment itself was questionable.

10. For the aforesaid reasons, the present Writ Petition is dismissed and the Petitioner is directed to pay the balance amount outstanding. In the interest of justice, however, considering the long delay involved and the

consequent financial hardship arising, the initial condition of imposition of interest at the rate of 18% per annum as directed in the earlier order dated 11.2.1999 is reduced to 9% per annum only, which shall be paid by the Petitioner alongwith outstanding balance within the next three months.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

August 14, 2018
AS

- 1. Whether speaking/reasoned ? Yes/No**
- 2. Whether reportable ? Yes/No**