

Sr.no. 219

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12498 of 2015(O&M)

Date of Decision: 23.10.2018

Om Parkash

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present Mr.Ashok Kaushik, Advocate for the petitioner.
Mr. Ankur Mittal, Addl.AG, Haryana with
Mr. Manoj Dhankar, AAG, Haryana.

RAJESH BINDAL, J (ORAL)

The petitioner had approached this Court challenging the validity of Rule 8(8) of the Haryana Evacuee Properties (Management and Disposal) Rules 2011. Further challenge has also been made to previous order passed by the authorities determining the rates at which the land in possession of the petitioner was sold to him. The petitioner is questioning the amount to be charged from him. He was in unauthorized occupation of evacuee property which was sought to be purchased by him.

On December 01, 2015, the following arguments of learned counsel for the petitioner were noticed:-

“During the course of arguments, it has been found that the market price of the land in question has been reasonably assessed. However, learned counsel for the petitioner argued with regard to charging of 20% additional amount for use and occupation on that market price being unreasonable and arbitrary.”

On 29.04.2016, this Court raised a question and issued notice to the petitioner to show cause as to how the allotment in his favour was

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justified in law.

On 16.02.2017, noticing the contention raised by the learned counsel for the parties, this Court passed the following order:-

“The petitioner has filed the present writ petition impugning the Rule 8(8) of the Haryana Evacuee Properties (Management and Disposal) Rules 2011 with a grievance that 20% of the price of the property asked for as charges for unauthorized use and occupation of the property was unreasonable.

On 29.4.2016, while rejecting the prayer of the petitioner to file replication, he was issued notice to show cause as to how allotment of land in his favour was justified. The petitioner herein was admittedly in unauthorized occupation of the evacuee property, for which he was directed to pay a sum of ₹ 1,17,97,500/-. The area in possession of the petitioner is 1 Bigha 1 Biswa located in Rohtak City.

The State enacted Haryana Evacuee Properties (Management and Disposal) Act, 2008, under which policy dated 1.11.2001 was framed for disposal of evacuee property. The same was subject matter of consideration in Sh. Dalmer Singh vs. The State of Haryana and others, 2011 (1) PLR 779. The aforesaid policy was set aside. The State was directed to initiate proceedings against unauthorized occupants and to retrieve evacuee properties and thereafter, if need be, sell the same either by way of public auction or otherwise as per law. Thereafter the State framed Haryana Evacuee Properties (Management and Disposal) Rules, 2011, which were notified on 18.1.2011.

As this Court on 29.4.2016 had raised issue regarding legality of allotment of land in favour of the petitioner, let the State furnish information as to how much land was sold under the policy dated 1.11.2001 and to whom and whether it was retrieved after the aforesaid policy was quashed by this Court in Sh. Dalmer Singh's (supra) and further the land allotted

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under 2011 Rules.

Adjourned to 18.4.2017. ”

Despite repeated adjournments neither the petitioner has responded to the show cause notice issued to him nor the State has furnished the information sought.

Today when the case was taken up for hearing, learned counsel for the petitioner submitted that he may be permitted to withdraw the writ petition.

Ordered accordingly.

However, dismissal of the writ petition as withdrawn will not close the notice issued to the petitioner to justify the allotment in his favour. The petitioner needs to respond to that notice to justify allotment of land in his favour.

State shall also file affidavit of the Secretary concerned with regard to the facts noticed in order dated 16.02.2017.

Adjourned to 16.11.2018.

(RAJESH BINDAL)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

23.10.2018
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No