

**HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

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**CWP No.24260 of 2013 (O&M)**

**Date of Decision: 18.09.2018**

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Gulshan Dewan & Ors.

...Petitioners

VS.

State of Punjab & Ors.

... Respondents

\*\*\*\*

**CWP No.1030 of 2015 (O&M)**

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Ranjit Kaur

...Petitioner

VS.

State of Punjab & Ors.

... Respondents

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**Coram : Hon'ble Mr.Justice Surya Kant  
Hon'ble Mr.Justice Sudip Ahluwalia**

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Present: Mr. Ranjivan Singh, Advocate for the petitioners  
Mr. Sandeep Vermani, Addl. AG Punjab  
Mr. Shekhar Verma, Advocate for GMADA  
Ms. Manmohan Kaur, Advocate for respondents No. 4 to 9, 11,  
13 to 21, 23 to 26, 28, 32, 35, 37, 38, 40 to 43, 46, 47, 49 to 54,  
58, 62, 64, 65 to 67, 69 to 75 and 78 to 80

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**SURYA KANT J. (Oral)**

(1) This order shall dispose of the above-captioned two writ petitions involving common point. For brevity, the facts are taken from CWP No.24260 of 2013.

(2) The petitioners were tenants/occupiers of the sites in the Janta Rehri Market, Phase 3B1, SAS Nagar Mohali. An incident of fire unfortunately destroyed their source of livelihood as the *khokas* were burnt in fire. Most of the persons who were found owning *khokas* or such sites were rehabilitated by formulating a Scheme under which booths were allotted in the same market. The petitioners' claim was not considered on the plea that they were 'unauthorized tenants or occupiers'.

(3) One of us (Surya Kant, J.) while sitting in Single Bench intervened in the matter vide order dated 08.05.2009 passed in CWP No.15691 of 2008 (P5) and disposed of the same in following terms:-

*“Having heard Learned Counsel for the parties at some length and considering the fact that more than one seriously disputed question of fact are involved but keeping in view the fact that the petitioners belong to a poor strata of the society and if found eligible, would be entitled to some benefit under a welfare policy framed by the respondents, I deem it appropriate to dispose of this writ petition with a direction to the GMADA to constitute an Officers Committee to be headed by its Estate Officer to re-examine the petitioners' claim strictly in terms of the policy decision and if it is found that they are also entitled for allotment of some sites, necessary orders shall be passed to that effect. The entire exercise shall be undertaken within a period of four months from the date of receipt of a certified copy of this order.”*

(4) The authorities, nevertheless, completely overlooked the mitigating circumstances and instead of showing any compassion, have turned down the petitioners' claim observing as follows:-

*“Booths are being allotted to rehabilitate persons working in the market. When scheme was formulated at the time survey was conducted Booths have to be allotted to persons found eligible in the survey. Since survey, till the allotment of booths if any person executes*

*rent deed or agreement then PUDA/GMADA is not responsible for that. So there is no right to allot booths to tenants working in the market, as these cannot be covered under the policy of PUDA, now GMADA. So going through the statements of the petitioners given before the committee, documents submitted and official record, we come to conclusion that booths cannot be allotted to the petitioners their being tenants. So claims of the petitioners have been rejected by the committee.”*

(5) It appears that directions issued by this Court in some subsequent cases also met with the same fate.

(6) The aggrieved petitioners have approached this Court.

(7) We have heard learned counsel for the parties and gone through the record.

(8) It goes without saying that the petitioners belong to marginalized section of society and their source of livelihood was small time businesses set up in the *khokas* which they had taken on rent/*tehbazari* basis from the allottees/occupiers. It is also not in dispute that the fire incident snatched the source of petitioners’ livelihood and they were brought on roads. It is quite possible that the State Government or its agencies like GMADA may not in every unfortunate accident provide alternative sites at the State expense, for it all depends upon the fiscal condition of the State and the budget it can afford to allocate on social welfare means. However, the petitioners would be fully satisfied if the State Government issues instructions to the agencies like GMADA to construct booth sites on the principle of ‘no-profit-no-loss’ and rehabilitate them without incurring any

additional burden on the State Exchequer or its agencies. Since repeated directions issued in the past for consideration or re-consideration of such claims have failed to yield any fruitful result, we direct the Chief Secretary to State Government to intervene in the matter and take appropriate decision, and if feasible, issue necessary instructions to GMADA to identify the site and start the project within a period of six months from the date of receipt of certified copy of this order. The consent of each petitioner shall be taken in advance and they shall deposit earnest money or the advance instalment so that the progress of the project is not hampered for want of funds.

(9) Disposed of.

**(Surya Kant)**  
**Judge**

**18.09.2018**  
*vishal shonkar*

**(Sudip Ahluwalia)**  
**Judge**

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

**Yes**  
**No**