

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-18359-2017

Date of Decision: 26.4.2018

Lalit Yadav and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

PRESENT: Mr. Saurabh Arora, Advocate for the petitioners.

Mr. D.R. Singla, Deputy Advocate General, Haryana.

Mr. Deepak Balyan, Advocate for the respondent-HUDA.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the order/letter dated 5.6.2017 (Annexure P-11) vide which the petitioners had been advised to apply for allotment of a plot under the oustees quota in fresh advertisement and to refund the earnest money deposited by them along with interest. Further, a writ of mandamus has been sought directing the respondents to allot the plot to the petitioners under the oustees policy dated 9.11.2010 (Annexure P-12).

2. Shri Om Parkash (father of petitioners No.1 and 2) was owner and co-sharer of the land situated within the revenue estate of village

Kanhai, District Gurugram as per the jamabandis for the years 1999-2000 (Annexures P-1 ad P-2, respectively). Said Shri Om Parkash had expired on 14.12.2014 as is clear from the death certificate dated 3.1.2015 (Annexure P-3). The said land was acquired by the State of Haryana vide notification dated 20.4.1990 issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by the notification dated 18.4.1991 under Section 6 of the Act. The award was passed on 23.3.1993. Shri Om Parkash applied for the allotment of plot vide application, Annexure P-4, along with 10% earnest money vide cheque dated 8.4.2004 (Annexure P-5). Since the applications for the allotment of plots under the oustees quota exceeded the number of plots, a draw of lots was held wherein Shri Om Parkash remained unsuccessful. His earnest money was refunded vide letter dated 29.10.2004 (Annexure P-6). Respondent No.4 vide letter dated 24.3.2006 (Annexure P-7) directed Shri Om Parkash to furnish the required documents so that his name could be included in the forthcoming draw of lots for allotment of plots under the oustees quota. In response thereto, the petitioner submitted an affidavit dated 10.4.2006 (Annexure P-8). Vide letter dated 9.6.2014 (Annexure P-9), the petitioner was asked to attend the office of respondent No.3 along with the requisite documents. After the death of Shri Om Parkash, the petitioners being his legal heirs applied for the allotment of a plot under the oustees quota vide application dated 27.7.2015 (Annexure P-10) along with earnest money of ₹ 50,000/-. Further, vide order/letter dated 5.6.2017 (Annexure P-11), respondent No.4 advised the petitioners to apply for the allotment of plot in fresh advertisement to be issued after determination of reservation and ordered for refund of the earnest money to the petitioners. As per the policy dated

9.11.2010 (Annexure P-12), the petitioners were entitled to the allotment of a plot under the oustees quota. A policy dated 11.8.2016 (Annexure P-13) was framed by the HUDA, wherein it was decided to refund the earnest money and application pending before the respondents. However, no plot had been allotted to the petitioners. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that after the Full Bench judgment of this Court in **CWP-22252-2016 (Rajiv Manchanda and others v. Haryana Urban Development Authority, Panchkula and others)** decided on 22.11.2017, the matter is required to be revisited by the authorities. Accordingly, it was prayed that liberty be granted to the petitioners to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition and direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of one month from the date of receipt of the certified copy of the order, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of six months from the date of receipt of the representation keeping in view the principles of law enunciated by the Full

Bench of this Court in **Rajiv Manchanda's case (supra)**. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

April 26, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No