

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-24401-2016

Date of Decision: 26.3.2018

Rohan Kapoor

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Ajit Malik, Advocate for the petitioner.

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

Mr. Deepak Sabharwal, 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 petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the policy dated 11.8.2016 (Annexure P-15) and the order dated 14.10.2016 (Annexure P-16) vide which the claim of the petitioner for the allotment of commercial site/SCO was rejected. Further, a writ of mandamus has been sought directing the respondents to make allotment of commercial site/SCO to the petitioner for which he had already applied vide application dated 16.7.2016 (Annexure P-12).

2. Government of Haryana framed a policy dated 10.9.1987 (Annexure P-1) for the allotment of residential plots/commercial sites/SCO to the landowners whose land had compulsorily been acquired by the

12.3.1993 (Annexures P-2 to P-4, respectively). The grandfather of the petitioner was owner of the land measuring 64 kanal 10 marla in which the grandmother of the petitioner was also having her share situated within the revenue estate of village Makhdoom Jadgan, Tehsil and District Panipat, as per the jamabandi for the year 1994-95 (Annexure P-5). The grandmother of the petitioner, namely, Smt. Vidhyawanti executed a Will dated 25.1.2007 (Annexure P-5/A). She had expired on 31.7.2007 leaving behind the petitioner as her legal heir. The said Will was got registered on 10.11.2009. Government of Haryana vide notification dated 23.2.1989 (Annexure P-6) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 22.2.1990 (Annexure P-7) under Section 6 of the Act acquired the land of the petitioner for the development of Sectors 13-17, Panipat. The award was passed on 21.2.1992. This Court vide order dated 25.4.2012 (Annexure P-8) passed in LPA-2096-2011 had decided the mode of allotment in future to the oustees for residential plots as well as commercial sites and the SLP-13375-2013 against the said order was also dismissed by the Apex Court vide order dated 24.11.2015. In CWP-10941-2010 along with other writ petitions, this Court vide order dated 26.4.2012 (Annexure P-9) had directed the respondents to make allotment of plot to each and every co-sharer depending upon their respective entitlement. Similar issue came up before this Court in CWP-6684-2014 and this Court vide order dated 4.4.2016 (Annexure P-10) directed the respondents to re-consider the claim of the petitioner strictly in terms of the orders, referred to above. The HUDA vide advertisement dated 15.7.2016 (Annexure P-11) offered certain SCO for e-auction. The petitioner moved a representation dated 16.7.2016 (Annexure

P-12) to respondent No.4 for the allotment of commercial site/SCO, but to no effect. Accordingly, the petitioner filed CWP-14299-2016 and this Court vide order dated 21.7.2016 (Annexure P-13) disposed of the said writ petition with a direction to the respondents to consider and decide the claim of the petitioner. When the said e-auction had failed, the HUDA vide advertisement dated 10.10.2016 (Annexure P-14) started e-auction of the SCO situated in Sectors 13-17, Panipat. However, this time also nobody took part in the said e-auction. The respondents had framed a policy dated 11.8.2016 (Annexure P-15) vide which it was decided to refund the earnest money along with interest to the applicants whose claims were pending. However, respondent No.3 vide order dated 14.10.2016 (Annexure P-16) rejected the claim of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner 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 petitioner 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 petitioner 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 petitioner 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 petitioner 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 petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

March 26, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No