

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-29957-2017

Date of Decision: 8.1.2018

Governing Body of The Pallavi Co-operative Group Housing Society
No.88, Panchkula

....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. Shilak Ram Hooda, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 notice dated 14.1.2016 (Annexure P-19) demanding the payment of enhanced compensation. Further, a writ of mandamus has been sought directing the respondents to recalculate the amount to be recovered from the petitioner in view the arbitration award dated 8.6.2015 (Annexure P-18) and the judgment of the Apex Court dated 17.2.2015 (Annexure P-7) and after adjusting the amount already paid and setting off the amount of 20% rebate for completion of construction of building within the stipulated period as mentioned in the allotment letter as per the HUDA Policy along with interest thereupon @ 15% per annum from the date of its accrual till actual realization and to refund the excess amount

square meters.

2. The petitioner-society applied for the allotment of a plot measuring 2000 square meters for constructing dwelling units for its members under the Group Housing Scheme, 1990 and was allotted Plot No. GH-88, Sector-20, Panchkula vide allotment letter dated 12.10.2001 (Annexure P-1) by respondent No.4. Respondent No.4 vide letter dated 12.5.2005 (Annexure P-2) offered possession of the plot to the petitioner by making necessary development to provide basic essential amenities. Vide possession certificate dated 15.12.2006 (Annexure P-3), the possession of Plot No. GH-28, Sector-20, Panchkula was handed over to the petitioner-society. Respondent No.4 vide letter dated 19.12.2007 (Annexure P-4) approved fresh building plan of the petitioner by granting permission to erect building on the plot in question with certain conditions. The petitioner vide application dated 8.9.2009 (Annexure P-5) claimed 20% rebate in land cost on completion of construction over the plot in question within the stipulated period as per HUDA policy. The respondents demanded enhanced compensation from the allottees of Sector 20, Panchkula on the basis of enhancement of land acquisition compensation to the landowners made by various awards of reference Court and this Court. The allottees challenged the demand notices issued by respondent No.2 by way of CWP-194-2006 and CWP-19685-2002 and this Court vide order dated 25.7.2008 quashed the said demand notices. The HUDA preferred SLP bearing Civil Appeal No. 21489-2008 before the Apex Court and the Apex Court vide order dated 18.1.2010 (Annexure P-6) disposed of the said SLP as infructuous with liberty to the HUDA to raise demand for additional price/enhanced price from the allottees of the plot as and when it becomes

necessary to pay higher compensation to the land holders in terms of the award passed by the competent authority. Although, the petitioner was entitled to 20% rebate of cost of plot as per HUDA policy by completing the construction within the stipulated period much earlier but the occupation certificate was given by respondent No.4 vide letter dated 9.2.2010 (Annexure P-7). Respondent No.4 vide letter dated 10.6.2010 (Annexure P-8) received details of the amount paid by the HUDA to the landowners on the basis of the awards passed by the Land Acquisition Collector and the Reference Court for recovery of the same from the allottees of Sector 20, Panchkula from respondent No.2. Respondent No.2 vide letter dated 18.6.2010 (Annexure P-9) directed respondent No.4 for recovery of enhanced compensation of the land of Sector-20, Panchkula. Thereafter, respondent No.4 vide demand notice dated 8.7.2010 (Annexure P-10) sought recovery of ₹ 45,53,640/- of enhanced acquisition cost of land from the petitioner. The office of respondent No.2 vide letter dated 6.5.2011 (Annexure P-11) made recalculations for the recovery of 2nd enhancement to be made from the allottees of lands in Sector 20, Panchkula. The petitioner vide receipts dated 28.8.2011, 20.3.2015, 31.5.2015 and 16.12.2015 (Annexure P-12 Colly) deposited a sum of ₹ 57.40 lakhs as enhanced compensation for its 2000 square yards land. Thereafter, in pursuance to the demand notice dated 14.1.2016 (Annexure P-19) and the balance of due amount of earlier demand notice, the petitioner deposited ₹ 3,40,000/- in total vide receipt dated 11.10.2017 (Annexure P-12/A). The petitioner made a representation dated 6.11.2012 (Annexure P-13) to respondent No.4 for the grant of 20% rebate in the cost price by completing construction of the building within the stipulated period. This Court vide order dated

5.7.2013 (Annexure P-14) appointed an Arbitrator on the application moved under Section 11 of the Arbitration and Conciliation Act, 1996. Similarly, Group Housing Society No.103 whom recovery notice dated 8.7.2010 demanding the enhanced price on the basis of the additional compensation to be paid by the HUDA had filed CWP-14689-2010 and this Court vide order dated 25.9.2013 (Annexure P-15) directed the committee of the respondents to recalculate the amount after giving opportunity of hearing to the representative of the Group Housing Society within a period of three months from the date of receipt of a certified copy of the judgment. When no action was taken on the application dated 8.9.2009 and the reminder dated 6.11.2012 for grant of 20% rebate on the cost of land, the petitioner moved representations dated 5.6.2014, 24.6.2014 and 1.7.2014 (Annexure P-16 Colly) to respondent No.4, but to no effect. The land for development of Sector 20, Panchkula was acquired vide notifications dated 29.1.1990, 21.12.1994 and 26.4.1995 and the landowners challenged the award by filing references and the Reference Court, Panchkula vide different awards awarded different rates ranging from ₹ 160/- per square yard to ₹ 600/- per square yard for the entire acquired land of all the said notifications. The Supreme Court vide order dated 17.2.2015 (Annexure P-17) awarded the compensation for all the acquisitions @ ₹ 394/- per square yard with all statutory benefits solatium and 12% additional amount. The Arbitrator vide award dated 8.6.2015 (Annexure P-18) came to the conclusion that Group Housing Society No.24, Sector-20, Panchkula would pay a total compensation of ₹ 7,92,399/- along with interest @ 15% per annum w.e.f. 23.10.2008 till actual realization to the HUDA. In pursuance to the order dated 25.9.2013 (Annexure P-15), the HUDA vide order dated 9.10.2015

(Annexure P-19) directed the respondents to constitute a committee to re-determine the amount to be recovered from the societies after affording adequate opportunity to their respective representatives. Respondent No.4 vide recovery notice dated 14.1.2016 (Annexure P-19) demanded an amount of ₹ 26,30,120/- at the inflated rate of ₹ 1315.06 per square meter from the petitioner. Shri Lalit Kumar Yadav, Advocate sought an information under the Right to Information Act, 2005 vide application dated 5.7.2016 from respondent No.4 regarding the amount incurred by HUDA in making payment to the landowners in lieu of their acquired land. Since, no information was furnished by respondent No.4, said Shri Lalit Kumar Yadav, Advocate filed an appeal dated 2.11.2016 (Annexure P-20) before respondent No.3. Thereafter, the petitioner filed COCP-1508-2015 for non-compliance of the order of this Court and this Court vide order dated 10.8.2017 (Annexure P-21) disposed of the said contempt petition directing the petitioner to make another detailed representation mentioning all the grievances to the respondents within a period of two weeks and a further direction was issued to the respondents to consider the same and pass a detailed speaking order within a period of two months and the liberty was granted to the petitioner to avail appropriate remedy if still aggrieved. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner has moved the representations dated 6.11.2012 (Annexure P-13) and 5.6.2014 to 1.7.2014 (Annexure P-16 Colly) to respondent No.4 for rebate of 20% in the land cost as per the allotment letter, but no action has so far been taken thereon. He, however, prayed that liberty be granted to the petitioner to file a detailed and comprehensive representation before

respondent No. 4 by incorporating the grievance as raised in the present writ petition and direction be issued to the said respondent to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the petitioner, 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 respondent No.4. It is directed that in the event of a representation being filed by the petitioner within a period of one month from today, the same shall be decided by respondent No.4 in accordance with law by passing a speaking order and after affording an opportunity of hearing to petitioner or its authorized representative (s) within a period of two months from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

January 8, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes