

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-5642-2017

Date of Decision: 23.4.2018

Harpreet Singh 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: Ms. Harpreet Kaur, Advocate for
Mr. Anil Rathee, Advocate for the petitioners.

Mr. Sandeep Moudgil, Additional 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 dated 21.11.2016 (Annexure P-32) and the instructions dated 4.12.2015 and 11.8.2016 (Annexures P-33 and P-34, respectively). Further, a writ of mandamus has been sought directing the respondents to allot plots to the petitioners under the oustees policy.

2. The petitioners were owners of the land situated in village Phoosgarh, District Karnal. The said land was acquired by the respondents vide notification dated 2.1.2002 (Annexure P-1) issued under Section 4 of

dated 24.12.2002 (Annexure P-2) under Section 6 of the Act for the development and utilization of land as residential and commercial areas for Sectors 9 (Part), 32 and 33 (Part), Karnal. The petitioners filed objections under Section 5-A of the Act. The award was passed on 21.12.2004. The said acquisition proceedings were challenged by way of CWP Nos. 17089 of 2005 and 4070 of 2005 along with other connected writ petitions and this Court vide orders dated 27.10.2005 and 9.9.2005 (Annexures P-3 and P-4, respectively) disposed of the said writ petitions with liberty to the petitioners therein to move a representation which was to be disposed of by the respondents in terms of the order dated 16.7.2005 passed in CWP-10845-2004. In pursuance thereto, the matter was referred to the High Powered Committee who vide order dated 13.10.2008 (Annexure P-5) rejected the claim of the petitioners. Government of Haryana framed the policies dated 10.9.1987 and 9.5.1990 (Annexures P-6 and P-7, respectively) and as per the said policies, all the co-sharers were eligible for the allotment of plots individually. Another policy dated 18.3.1992 (Annexure P-8) was framed and according to the said policy, each co-sharer was entitled to the allotment of a plot individually as per his share in the joint holding. The said policy was modified vide policy dated 12.3.1993 (Annexure P-9) restricting the right for applying for allotment of plots under the oustees category to the extent of one plot to all the co-sharers. Thereafter, the petitioners moved various representations to respondent No.4 for the allotment of plots under oustees quota. Respondent No.3 vide letters dated 12.7.2010 and 13.7.2010 (Annexures P-10 and P-11, respectively) informed petitioners No.1 and 3 that as and when plotting of sectors takes place, then they approach the department for allotment.

Subsequently, vide letters dated 25.3.2011 and 28.3.2011 (Annexures P-12 and P-13, respectively), respondent No.4 rejected the request of the petitioners. As per the details, Annexure P-14, the land of the petitioners was acquired along with its area and the shares of the co-sharers. The respondents have framed the policies dated 7.12.2007 and 9.11.2010 (Annexures P-15 and P-16, respectively) and according to the said policies, each co-sharer was entitled to the allotment of plot under the oustees quota. The respondents had issued an advertisement (Annexure P-17) for allotment of plots to the general public in Sector 32, Karnal. Accordingly, the petitioners filed CWP-9150-2011 and this Court vide order dated 26.4.2012 (Annexure P-18) disposed of the said writ petition in terms of the order dated 26.4.2012 (Annexure P-19) passed in CWP-10941-2010 and connected petitions. The said orders were challenged by the respondents by way of SLPs and the Supreme Court vide order dated 24.11.2015 (Annexure P-20) dismissed the said SLPs. Further, this Court vide order dated 20.8.2014 (Annexure P-21) passed in CWP-2212-2014 directed the respondents to follow the order dated 26.4.2012 passed in LPA-2096-2011. On the basis of the order dated 26.4.2012, the respondents framed a policy dated 10.9.2012 (Annexure P-22) wherein it was decided to notify a land pooling scheme for development of residential sector by the HUDA and the landowners were also given an option to become partner in the development process. Vide public notice dated 8.2.2014 (Annexure P-23), the HUDA invited the applications for the allotment of plots under the oustees quota in Sectors 9, 32 and 33 (Part), Karnal. In response thereto, the petitioners applied for the allotment of plots along with earnest money of ₹ 50,000/- each and the affidavit as is clear from the applications, receipts and

affidavits (Annexures P-24 to P-28, respectively) moved by petitioners No.4 to 8. Since the respondents had taken a decision to conduct the draw of lots of plots for Sectors 32 and 33, Karnal for general public without first holding the draw of lots of the oustees quota plots, the petitioners filed CWP-23952-2014, this Court vide order dated 19.11.2014, stayed the draw of lots. Subsequently, this Court vide order dated 14.5.2015 modified the said order to the extent that after reserving draw of lots of 236 plots, rest of the plots be conducted and in respect of 236 plots, the draw of lots would not be conducted pending decision of oustees claim in Bhagwan Singh's case. This Court vide order dated 27.4.2016 (Annexure P-29) disposed of the said writ petition in terms of the order dated 4.4.2016 (Annexure P-29) passed in CWP-6684-2014. Thereafter, the petitioners requested the respondents for the allotment of plots under the oustees quota particularly when the plots under the oustees quota were advertised on the directions issued by this Court vide order dated 6.1.2012 (Annexure P-30) passed in CWP-5223-2011. Even 236 plots were kept reserved for the petitioners and other oustees who had submitted the applications for the allotment of plots in Sectors 32 (Part) and 33 (Part), Karnal in pursuance to the advertisement dated 8.2.2014 on the directions issued by this Court vide order dated 14.5.2015 (Annexure P-31). When no action was taken thereon, one of the petitioners filed COCP-2860-2016 in which notice of motion was issued. The respondents vide order dated 21.11.2016 (Annexure P-32) decided that as and when any advertisement is issued in future inviting claims from the oustees as per reservation in the sector, on availability of plots, then the petitioners would be at liberty to make applications as per their entitlement, as per policy and as per terms of the advertisement and ordered for refund

the earnest money deposited by the petitioners along with interest. The said order was conveyed to petitioner No.1 vide letter dated 6.12.2016 (Annexure P-32). In this regard, the instructions dated 4.12.2015 and 11.8.2016 (Annexures P-33 and P-34, respectively) were also issued. 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 23, 2018
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(ANUPINDER SINGH GREWAL)
JUDGE

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