

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-456-2018

Date of Decision: 21.3.2018

Trimurty Co-operative Group Housing Society Limited, Gurgaon

....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. Amit Jain, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant 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 order dated 23.10.2015 (Annexure P-12) passed by respondent No.2 holding liable to the petitioner to pay a sum of ₹ 1203.75 as enhanced compensation with updated interest upto closing of Group Housing Scheme, i.e. by March, 2003 or in the alternative issue a direction to the respondents to decide legal notice dated 31.7.2017 (Annexure P-14) within a time bound manner.

2. In the year 1994, the respondents had floated a Scheme for the allotment of Group Housing Societies in Sector 39, Gurugram at the rate of ₹ 1525/- per square meter. In the references filed by the landowners, the enhancement was made which was worked out to be ₹ 998.90 per square

yard to be recovered from the allottees vide letter dated 4.3.1999 (Annexure

P-1). The said rate was revised in the year 2004 for general category to ₹ 905.53 per square yard. In the year 2002-03, respondent No.2 fixed sale price @ ₹ 2961/- per square yard for Group Housing Plot of Sector 39, Gurgaon and floated a Group Housing Scheme, 2003 for plots at Gurgaon including Sector 39, Gurgaon. In response thereto, the petitioner applied for a Group Housing Plot and a Letter of Intent (LOI) was issued to the petitioner for the allotment of one acre plot. The regular allotment letter dated 23.5.2005 (Annexure P-2) along with offer of possession was issued to the petitioner. The actual physical possession was delivered to the petitioner vide letter dated 21.11.2005 (Annexure P-3). Vide letter dated 2.4.2004, the Accounts Officer informed respondent No.5 that this Court had reduced the enhanced compensation which was upheld by the Supreme Court and the same was worked out to be ₹ 886.68 per square yard instead of ₹ 998.90 per square yard and vide letter dated 7.12.2004 (Annexure P-4), made the revised calculations. Respondent No.2 vide letter dated 18.6.2002 (Annexure P-5) conveyed the rates of Group Housing Scheme in respect of various Urban Estates of HUDA for the financial year 2002-03 to all the Administrators, HUDA and the Chief Town Planner, HUDA, Panchkula. Respondent No.2 vide letter dated 1.5.2003 (Annexure P-6) asked respondent No.4 to examine the matter and charge interest on enhanced compensation from the allottees including the petitioner. The Senior Accounts Officer wrote a letter dated 11.5.2007 (Annexure P-7) to respondent No.5 to charge interest on enhanced compensation from the allottee of plot No.718, Sector 40, Gurgaon. Respondent No.4 vide order dated 1.10.2008 (Annexure P-8) while deciding the appeal of one Yudhister Lal owner of plot No.2210, Sector 46, Gurgaon held that the HUDA was

entitled to charge interest on the enhanced compensation from the date when the same was conveyed. Further, while dealing with plot No.472, Sector 39, Gurgaon, respondent No.5 requested respondents No.2 and 3 to examine the matter as to whether the enhanced compensation could be demanded on updated rate of ₹ 2912/- per square yard or at the original rate of ₹ 905.53 per square yard as no demand was made earlier. Respondent No.2 vide letter dated 1.7.2014 (Annexure P-9) decided that the enhanced notice issued by respondent No.5 for the demand of ₹ 2912/- per square yard be withdrawn and notice of original amount of enhancement of ₹ 905.53 per square yard be issued. Respondent No.5 issued demand notice dated 27.10.2014 (Annexure P-10) to GH-2, Sector 39, Gurgaon for the payment of additional price of the plot. The petitioner served a legal notice dated 22.12.2014 upon the respondents, but to no effect. Thereafter, the petitioner filed CWP-6477-2015 and this Court vide order dated 8.4.2015 (Annexure P-11) disposed of the said writ petition with a direction to respondents No.2 and 4 to decide the legal notice of the petitioner within a period of three months. In pursuance thereto, respondent No.2 vide order dated 23.10.2015 (Annexure P-12) rejected the claim of the petitioner. Accordingly, the petitioner deposited the amount due without prejudice to their legal right vide letter dated 2.1.2017 (Annexure P-13) and requested for issuance of 'No Dues Certificate'. Thereafter, the petitioner served a legal notice dated 31.7.2017 vide postal receipts dated 1.8.2017 (Annexure P-14 Colly) upon respondents No.2 to 5 for withdrawal of the order, Annexure P-12 and to release the amount paid on account of enhanced compensation along with interest, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a legal notice dated 31.7.2017 (Annexure P-14) to respondents No.2 to 5, but no action has so far been taken thereon.

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 directing respondent No.2 to take a decision on the legal notice dated 31.7.2017 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 21, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No