

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4804-2018

Date of Decision: 28.2.2018

East India Cotton Manufacturing Company Ltd. Sahilbabad, Ghaziabad

....Petitioner.

Versus

State of Haryana and another

...Respondents.

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

PRESENT: Mr. A.K. Chopra, Senior Advocate with
Mr. Gursher Singh Bhandal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to re-convey the land measuring 7138 square yards to the petitioner which remained un-utilized after the establishment of East India Colony, Sector 22, Faridabad and further to direct respondent No.2 to decide the representation dated 18.3.2016 (Annexure P-16) sent by the petitioner.

2. In the year 1976, the State Government announced a scheme allocating loans through erstwhile Faridabad Complex Administration (in short "the Administration") now Municipal Corporation, Faridabad for providing shelter to weaker sections of the society at cheaper rates. Accordingly, the petitioner approached the Administration for the said purpose and entered into a mutual understanding with the Administration to get the loan sanctioned from HUDCO. The petitioner agreed to keep the land owned by the company and its allied unit as a collateral security. The

(Annexure P-1) requested the Commissioner and Secretary to the Government of Haryana for approval of a Government guarantee of the said loan amount. The land measuring 27305.6 square yards owned and possessed by the petitioner and its allied unit was transferred by the petitioner in favour of the Administration vide two sale deeds dated 25.11.1976 (Annexure P-2 Colly). The Administration sent notices to the petitioner to pay the installments of the loan amount and the same were paid by the petitioner vide receipts (Annexure P-3 Colly). The petitioner also paid the maintenance charges of the sewer connection from time to time as is clear from the receipts (Annexure P-4). Since the land was transferred to the Administration, still the petitioner remained owner of the land in the revenue record as is clear from the jamabandi for the year 1993-94 (Annexure P-5). In the year 1991, the Administration issued notices directly to the occupants to claim and collect a sum of ₹ 4900/- per EWS unit 'as part payment of monthly installment' to allot the houses on hire-purchase basis despite that the workers/occupants were not paying any rent and that the petitioner had repaid the loan, interest and cost of expenses and house tax of the said dwelling units. Accordingly, the petitioner filed a suit for declaration against the Administration and three employees on 5.3.1991. During the pendency of the suit, the petitioner went into losses and in the year 1996 filed an application under Section 25-N of the Industrial Disputes Act, 1947 to retrench surplus workmen. The members of the workers union took forceful possession of the plant, machinery and office of the petitioner and a reference was made under Section 15(1) of the Sick Industries Companies (Special Provisions) Act, 1985 before the Board of Industrial and Financial Reconstruction (BIFR) and vide order dated 4.10.1996 (Annexure P-6), the petitioner was declared as Sick Industrial Company. However, the suit of the petitioner was dismissed vide judgment and decree dated 27.10.1997 and the appeal filed thereto was also dismissed by the appellate authority vide judgment and decree dated 30.3.1999. RSA-4757-1999 filed against the said judgments and decrees was admitted and is pending adjudication. The respondent-Corporation in its house meeting held on 2.5.1997 decided that a part of vacant land measuring 7138 square yards was required to be returned/re-conveyed to the petitioner and as such

petitioner. The Senior Town Planner vide letter dated 17.6.1997 (Annexure P-7) sought the legal opinion from the District Attorney about the legal status of the land measuring 7138 square yards which remained vacant being un-utilized. Vide letter dated 24.7.1997, respondent No.2 informed the petitioner that the request for transfer of un-utilized land had been considered. Respondent-Corporation in its house meeting held on 4.9.1997 (Annexure P-9) considered the progress in regard to the decision taken by it vide Resolution No.4 passed in the meeting held on 2.5.1997 wherein approval was accorded to transfer the land in question. Further, the respondent-Corporation in its house meeting dated 6.1.1998 (Annexure P-10) decided to forward the proposal to the re-conveyance of the land measuring 7138 square yards to the Government with a view to return the said land on the same terms and conditions on which it was sold. Respondent No.1 vide letter dated 30.11.1999 (Annexure P-11) asked respondent No.2 to take action in the matter. The petitioner vide letter dated 31.12.2008 (Annexure P-12) requested respondent No.2 for issuance of 'No Dues Certificate' of the loan which was paid by it. In reply thereto, respondent No.2 vide letter dated 17.2.2009 (Annexure P-13) asked the petitioner to deposit the outstanding amount of ₹ 1,44,389/-. On doing so, respondent No.2 vide letter dated 12.3.2009 (Annexure P-14) issued 'No Dues Certificate' on account of loan, house tax/land tax of the residential quarters upto 31.3.2009. Vide order dated 19.8.2013 (Annexure P-15), the petitioner was discharged from the purview of BIFR. Thereafter, the petitioner moved various representations including the representation dated 18.3.2016 (Annexure P-16) and reminder dated 5.9.2016 to respondent No.2 to demarcate and re-convey the un-utilized land to the petitioner, 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 representation dated 18.3.2016 (Annexure P-16) to respondent No.2, 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 representation dated 18.3.2016 (Annexure P-16), 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

February 28, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

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