

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.18970 of 2017
Date of decision: 03.07.2019**

Surjit Kaur

..Petitioner

Versus

State of Punjab and another

..Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. S.S. Salar, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab
for respondent No.1-State.

None for respondent No.2.

Daya Chaudhary, J.

Petitioner-Surjit Kaur has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of condition of price of the plot as quoted in the allotment letter dated 11.08.2017 (Annexure P-4). A further prayer has also been made for issuance of a direction to the Improvement Trust (respondent No.2) to issue fresh allotment letter by quoting price as prevalent during the year 2010.

Briefly, the facts of the case as made out in the present writ petition are that the petitioner is owner in possession of land measuring 500 square yards comprised in Khasra No.1155/62, 1156/63 Khata No.229/316

as per jamabandi for the year 1965-66, Village Dugri, Tehsil and District Ludhiana. She purchased the said land vide registered sale deed dated 27.01.1970 from one Col. Labh Singh. Vide notification dated 18.06.1973 issued by the Improvement Trust under Section 36 of the Punjab Town Improvement Act, 1922 (hereinafter called as 'the Act 1922'), the land of the petitioner was acquired. As per provisions of the Act 1922 and Rules framed thereunder, she became eligible and entitled for allotment of a plot being displaced person. On the basis of application submitted by the petitioner, a plot was allotted to her and thereafter, she deposited the earnest money. Accordingly she became entitled for plot but still it was not given. She filed a complaint before the District Consumer Disputes Redressal Forum, Ludhiana (hereinafter called as 'the Consumer Forum'), which was allowed and a direction was issued for allotment of plot measuring 300 square yards in Model Town Extension Part-II, Scheme. Compensation for harassment was also granted to the tune of ₹25,000/- along with cost of litigation. The order was directed to be complied with within a period of one month from the date of receipt of copy of the same. The petitioner applied for allotment of plot at the rate prevailing on the date of filing of the complaint or the date of decision passed in her favour. Vide letter dated 16.08.2017, the petitioner was informed to deposit the amount as per prevailing rate during the year 2017.

Learned counsel for the petitioner submits that it was not the fault of the petitioner and delay had occurred because of fault of the respondent-authorities. As per direction issued by the Consumer Forum, the

petitioner was to be allotted plot within a period of one month from the date of receipt of copy of order dated 07.09.2010. Learned counsel has relied upon judgment rendered by Hon'ble the Apex Court in ***Brij Mohan and others vs. Haryana Urban Development Authority and another, (2011) 2 Supreme Court Cases 29*** . In said case, the application was made in the year 1990 and the High Court was approached in the year 1992. As per directions issued by the High Court, the application was to be considered within a fixed period. It was also observed that there was a delay in allotment which was on the part of respondents-authorities. The claim of the petitioner was accepted and respondents-authorities were directed to allot the plot as per letter of allotment as the delay was on their part.

Learned counsel for the respondent submits that it cannot be said to be a case of fault on the part of respondent-authority as initially, on filing appeal, an interim order was passed in favour of the respondent-authority. The complaint filed by the petitioner was decided in the year 2010 and it was challenged by the respondent-authority by filing appeal, which was dismissed on 17.04.2017. The respondent-authority is empowered to charge the rates as prevalent in the year 2017 and accordingly, the petitioner was asked to pay the remaining amount of the plot.

Heard arguments of learned counsel for the parties and we have also perused the documents available on the file.

The facts are not disputed.

Admittedly, the litigation remained pending between the parties. The petitioner was issued an allotment letter on 11.08.2017 with the

condition that the price was to be paid as prevailing at the time of decision of the appeal. The grievance of the petitioner in the present writ petition is that the appeal was filed by the respondent-trust and subsequently, it was dismissed and it was not the fault on the part of the petitioner and delay has occurred on the part of respondent-authority, therefore, demand made by the authority is illegal.

Undisputedly, the application was submitted by the petitioner while depositing the earnest money in the year 1975 but plot was not allotted. She filed complaint before the Consumer Forum in the year 2009, which was allowed vide order dated 07.09.2010. A direction was issued to allot the plot measuring 300 square yards within a period of one month from the date of receipt of copy of the order. Thereafter, the appeal was filed by the respondent-Trust, which was dismissed and the petitioner was asked to deposit the amount as per prevalent rate at the time of dismissal of appeal.

No doubt the delay was on the part of respondent-Trust and there was much difference in the price of land during the intervening period. At the most, it can be said that the litigation remained lingering on till the decision of the appeal filed by the respondent-Trust.

The controversy in the present case is squarely covered by the judgment rendered by Hon'ble the Apex Court in ***Brij Mohan's case (supra)***. The relevant portion of the judgment is reproduced as under:-

“xxx

xxx

xxx

The appellants had made the applications in 1990 and approached the High Court in 1992. There was even a

direction by the High Court to consider their applications within a fixed time. The appellants should therefore be allotted plots under the scheme at the initial price at which the Layout/Sector plots were first offered for sale after the acquisition. Merely because HUDA delayed the allotment in spite of the applications of the appellants and the order of the High Court, and made the allotments only after a contempt petition was filed, does not mean that the appellants become liable to pay the allotment price prevailing as on the date of allotment. Having regard to the terms of the scheme which clearly requires that the land losers shall be invited to apply for allotment before the sector is floated for sale, it is clear that the initial price alone should be applied provided the land losers had applied for allotment at that time. In this case such applications were in fact made by the appellants. We are therefore of the view that the respondents could charge for the allotted plots only the rate of Rs.1032/- per sq.m. (or Rs.863/- per sq.yd.) and not the rate as revised in 1993 namely Rs.1122/- per sq.yd.”

In view of ratio of aforesaid judgment and the facts as mentioned above, the present writ petition is allowed and respondent No.2-Improvement Trust is directed to consider the claim of the petitioner by

having the amount on the basis of rates prevailing during the year 2010 and possession of the plot be handed over to her within a period of one month from the date of receipt of certified copy of this order.

(DAYA CHAUDHARY)
JUDGE

03.07.2019
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
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Whether Reportable	Yes
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