

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

**Contempt of Court Petition No.412 of 2016 (O&M)
Date of Decision: February 12, 2020**

Gurdeep Singh and others

.....PETITIONER(s).

VERSUS

Ajoy Kumar Sinha and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vishal Gupta, Advocate
for the petitioner (s).

Mr. Sanjiv Sharma, Senior Advocate with
Ms. Aarushi Jain, Advocate
for the respondent(s).

SURINDER GUPTA, J.

Petitioners seek initiation of contempt proceedings against the respondents for non-compliance of order dated 10.03.2015 passed in CWP-2328-2014, which reads as follows:-

10. "In view of the above, the petitioners acquired eligibility to seek allotment under oustee category and completed all the formalities on 19.07.2010. Delay cannot be attributed to the petitioners, which was beyond their control. In such circumstances, in our considered opinion, it would be just, fair and equitable to direct the respondents to allot the plot in question to the petitioners at the rate which was prevalent on the date when the petitioners had completed all the formalities, i.e. 19.07.2010. Learned counsel for the petitioners is agreed that the petitioners are prepared to pay the allotment rate as was prevalent in 2010.

Consequently, the letter dated 18.04.2013 (Annexure P-13) is quashed to the extent of charging the enhanced price @ ₹30,000/- per square yard. However, the respondents shall be entitled to recover the allotment price as was prevalent on 19.07.2010 in case not already paid by the petitioners.”

The facts of the case, which emerge from submission of learned counsel for the petitioners and from documents on file, are as follows:-

(i) 16 kanals 12 marlas of land belonging to Desa and Garibu son's of Munshi, situated in village Mataur was acquired vide Award No. 296 dated 15.01.1996 by Government of Punjab, Department of Housing and Urban Development for setting up of residential Urban Estate at S.A.S Nagar, Mohali.

(ii) It is admitted that as per the policy prevailing at the relevant time, both Desa and Garibu were entitled to allotment of one plot of 100 square yards under the Oustee Policy against the acquired land of 16 kanals 12 marlas.

(iii) Garibu produced affidavit dated 09.07.1993 before GMADA, whereby Desa son of Munshi had relinquished his claim for the allotment of plot in his favour.

(iv) On the basis of affidavit of Desa, plot No.927, Phase-10, Mohali measuring 100 square yards was allotted to Garibu vide office letter No.7614 dated 15.07.1993. Later on, on the application of Garibu, this plot was re-allotted in favour of Amarmmeet Singh son of Malkiat Singh vide office letter No. 11294 dated 11.10.1993.

Desa son of Munshi vide his representation dated 22.12.1994,

challenged the allotment made to Garibu and the parties were directed to get their dispute resolved through competent Court of Law.

(vi) In civil suit filed by Desa son of Munshi, affidavit dated 09.07.1993, given by Garibu to GMADA was set aside vide judgment dated 22.02.2007 passed by learned Addl. Civil Judge (Senior Division), S.A.S Nagar, Mohali and following directions were issued:-

“In view of my findings on the above given issue suit of the plaintiff is partly decreed with costs to the effect that the allotment of entire plot No.927 Phase-10 Mohali to defendant No.1 against Registration No. 10331 is illegal and void and the defendants are directed to allot the same afresh after ignoring affidavit Ex.P19 and taking into the consideration the remaining documents.”

(vii) Appeal and cross-objections against the judgment passed by learned Addl. Civil Judge (Senior Division), S.A.S Nagar, Mohali were dismissed and the regular second appeal filed by GMADA (RSA-870-2009) was also dismissed. Special Leave Petition No. 15179 of 2009 filed by GMADA was also dismissed by Hon'ble Supreme Court.

(viii) GMADA vide letter No.10307 dated 18.04.2013 allotted a plot No. 855, Sector-77, S.A.S Nagar, Mohali measuring 100 square yards to Desa Singh through his legal heirs at the prevailing rate of ₹30,000 per square yard.

(ix) The allotment was challenged by filing Civil Writ Petition No.2328 of 2014, which was disposed of vide order as discussed above in opening para of this judgment.

(x) At later stage, it was found that two plots have been allotted to

Garibu and Desa inadvertently against their entitlement for allotment of one plot, as such, the allotment of plot No.855, Sector 77, S.A.S Nagar Mohali to the legal heirs of Desa Singh was cancelled and the allotment of plot No. 927, Phase-10, S.A.S Nagar, Mohali was made in joint names of Garibu and Desa and detailed order dated 03.11.2016 Annexure R-2/1 was passed in this regard.

Learned counsel for the petitioners has argued that in compliance of order dated 10.03.2015 passed in CWP-2328-2014, the petitioners are eligible to seek allotment of a plot of 100 square yards under the oustee category with Garibu at the price prevailing in the year 2010.

Learned counsel for the respondents has argued that in compliance of the aforesaid order, plot No.927, Phase-10, S.A.S. Nagar, Mohali has been allotted at the price prevailing in the year 1993 and the order stood complied with.

Contesting the submission of learned counsel for the respondents, learned counsel for the petitioners has argued that the respondents were required to make fresh allotment. They could cancel the earlier allotment of plot No.927, Phase-10, S.A.S. Nagar, Mohali and allot a new plot in the names of Desa and Garibu as the earlier allotment was not in accordance with law.

On giving a careful thought to the submissions of learned counsel for the parties, I am of the view that there is substantial compliance of order dated 10.03.2015. Admittedly, one plot of 100 square yards is to be allotted jointly to Garibu and Desa. Plot No.927, Phase-10, S.A.S. Nagar, Mohali was allotted in the name of Garibu on his representation that Desa

had relinquished claim in his favour. In the civil suit, said affidavit of Desa Singh has been set aside and he has been found eligible for allotment of half share in plot No.927, Phase-10, Mohali. Against the order dated 10.03.2015, passed in CWP No.2328 of 2014, a Special Leave Petition was filed before the Apex Court, which was dismissed with the observations as follows:-

“However, since the petitioners are not aggrieved of the order passed on merits, it is open for the petitioners, if the concerned authority wants, to make corrections in the allotment order, the same may be done in accordance with the provisions of the relevant Act and the Rules and its policy, if any.”

So far as the allotment of plot No.855, Sector-77, SAS Nagar, Mohali in exclusive name of Desa Singh is concerned, the same could not be made as Desa Singh was entitled to only half share in a plot of 100 square yards. In the civil suit, allotment of plot No.927, Phase-10, SAS Nagar, Mohali in exclusive name of Garibu was challenged. That suit of the petitioners was decreed to the effect that allotment of entire plot No.927, Phase-10, SAS Nagar, Mohali to defendant No.1 Garibu was illegal, null and void. The directions were issued to respondents to allot the same afresh after ignoring the affidavit dated 09.07.1993 produced by Garibu and the above observations were affirmed in appeal.

In this petition, the petitioners are alleging non-compliance of order dated 10.03.2015 passed in CWP No.2328 of 2014, vide which the directions were given to allot the plot to the petitioners at the rate prevailing in the year 2010. The respondents have complied with the aforesaid directions as the allotment was made to petitioner Desa Singh of his share

in plot No.927, Phase-10, Mohali at the rate prevailing in the year 1993.

So far as the fraud played by Garibu with Desa Singh by producing his illegal affidavit to GMADA is concerned, petitioners have separate remedy against him. There is no non-compliance of the order in question calling for any action to be taken against the respondents.

Here, learned counsel for the petitioners has relied on the observations in cases of **Prithawi Nath Ram Vs. State of Jharkhand, 2004 (7) SCC 261** and **Bihar Finance Service H.C. Coop. Soc. Ltd. Vs. Gautam Goswami and others, 2008 (5) SCC 339,** wherein Hon'ble Apex Court has held that the parameters of jurisdiction of this Court under the Contempt Act, 1970 are to find whether the order, of which the non-compliance was alleged, has been complied with or not.

The relevant observations in this regard are contained in para 21 and 22 of the judgement in case of **Bihar Finance Service H.C. Coop. Soc. Ltd. Vs. Gautam Goswami and others (supra)**, are reproduced as follows:-

“21. Parameters of the jurisdiction of this Court under the [Contempt of Courts Act, 1970](#) are well-settled. {See [Maruti Udyog Limited v. Mahinder C. Mehta and Ors.](#) [2007 (4) RCR (Criminal) 959]}.

While dealing with such an application, the court is concerned primarily with :

- (i) whether the order passed by it has attained finality or not;
- (ii) whether the same is complied with or not.

22. While exercising the said jurisdiction this court does not intend to reopen the issues which could have been raised in the original proceeding nor shall it embark upon other questions including the plea of equities which could fall for consideration only in the original

proceedings. The court is not concerned with as to whether the original order was right or wrong. The court must not take a different view or traverse beyond the same. It cannot ordinarily give an additional direction or delete a direction issued. In short, it will not do anything which would amount to exercise of its review jurisdiction. [See [Director of Education, Uttaranchal and others v. Ved Prakash Joshi and others](#) AIR 2005 SC 3200 and [K.G. Derasari and Another v. Union of India and Others](#) (2001) 10 SCC 496].”

The direction to the respondents vide order dated 10.03.2015 was not to charge prevailing price but to recover allotment price as prevalent on 19.07.2010. The Hon'ble Apex Court vide order dated 10.07.2016 had allowed the respondents to make correction in the allotment order as per its Policy.

It is not the case of the petitioners that any term of the Rules or said Policy with regard to the allotment of plot has been flouted. The allotment to the petitioners has also been made at the price prevailing prior to 2010.

As a consequence of my above discussion, I am of the considered opinion that there is no non-compliance of order dated 10.03.2015 passed in CWP-2328-2014, calling for any contempt proceedings to be initiated against the respondents.

This petition has no merits. Dismissed.

Rule discharged.

February 12, 2020

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No