

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

CWP No.4386 of 2016

Date of Decision: 19.02.2020

Jaswant Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

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

Mr. Suveer Sheokand, Additional Advocate General, Punjab

Mr. Kamal Kumar, Advocate,
for Mr. Nitin Kaushal, Advocate,
for respondent No.2.

KARAMJIT SINGH, J.

This writ petition has been filed by the petitioner for issuance of a writ in the nature of certiorari for quashing of order dated 08.10.2015 (Annexure P-31) passed by respondent No.2-Chairman, Improvement Trust Ludhiana and for issuance of a writ of mandamus directing respondent No.2 to allot one plot of appropriate size to the petitioner under the Local Displaced Persons Category on reserved price, as per the Rules, which were prevalent at the time of the acquisition of land.

The case of the petitioner is that his grandmother, Harnam Kaur, was owner of residential plot measuring 398 Square Yards within Khasra Nos.418 and 435 in village Taraf Burara, Tehsil and District Ludhiana. In the meantime, Model Town Extension Part II Scheme was sanctioned by the Improvement Trust Ludhiana and a big chunk of land including the above-said

residential plot of Harnam Kaur was acquired, vide Award of 1978-79. The Improvement Trust Ludhiana had already framed Land Disposal Rules in the year 1964, which were superseded by Rules of 1975. Thereafter, new Rules were framed in 1983. As per the said Rules, Local Displaced Person was entitled to get one plot at concessional rate. No such plot was allotted to Harnam Kaur (since deceased) or the petitioner under the aforesaid Rules, despite the fact that application along with earnest money was submitted to Improvement Trust Ludhiana at the relevant time. The other similarly situated persons had already been allotted plots under the aforesaid Rules. Some of the land owners, whose land was acquired, filed writ petitions, which were disposed of by this Court with a direction to consider their cases for allotment of plots, in accordance with the Rules. The case of the petitioner was illegally rejected by respondent No.2, vide impugned order dated 08.10.2015 (Annexure P-31). Not being satisfied by the said order, the present writ petition has been filed by the petitioner.

The writ petition is contested by respondent No.2, who filed a short reply, in which, it was pleaded that Harbans Kaur was co-owner of the land in question and in lieu of the acquisition, one plot was allotted to her by the Improvement Trust. In case of joint owners of single acquired land, no more than one plot has to be allotted to such joint owners. The claim of the petitioner is not tenable as in this case one of the co-owner, namely, Harbans Kaur had already been allotted one plot, as per the Rules. It is further pleaded that there is no infirmity in the impugned order dated 08.10.2015 (Annexure P-31) and it is prayed that the writ petition be dismissed.

We have heard learned counsel for the parties and also gone through the record.

It is not disputed that the residential plot measuring 398 Square Yards belonging to Harnam Kaur, grandmother of the petitioners, was acquired by Improvement Trust Ludhiana, vide Award of 1978-79. The petitioners have claimed one plot at concessional rate on the ground that they are to be considered as Local Displaced Persons, being legal heirs of Harnam Kaur, who was not allotted any such plot during her life time. The claim of the petitioners was declined by respondent No.2, vide impugned order dated 08.10.2015 (Annexure P-31), on the ground that one such plot had already been allotted to Harbans Kaur, one of the co-owners of the land in question and, in case of joint owners of single acquired land, only one plot has to be given to such joint owners.

In exercise of the powers conferred under Clause (xiii) of Sub-Section 1 of Section 73 of the Punjab Town Improvement Act, 1922, the State of Punjab made rules known as Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975. Thereafter, the Punjab Government framed new rules called, 'The Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983'. As per both the said rules, Local Displaced Persons are entitled to be allotted plots in lieu of their land acquired.

The Full Bench of this Court in **Jarnail Singh and others Vs. State of Punjab and others, 2011 AIR (Punjab) 58**, held that in case of any compulsory acquisition of land by the Government for public purpose, a co-owner, as per the eligibility criteria fixed by the State Government, shall be entitled to be considered for allotment of plot irrespective of the fact that his holding of land was joint with other co-owners. It was also observed by the Full Bench that the restriction of allotment of one plot to a joint khata holder is unreasonable and arbitrary, as each of the land owner is entitled to the

rehabilitation in his individual right.

In **Rajiv Manchanda and others Vs. Haryana Urban Development Authority and another**, 2018(4) R.C.R. (Civil) 508, the Full Bench of this Court while dealing with allotment of plots to oustees under the Haryana Urban Development Authority Act, 1977, held that the rights of the co-owners are now established by the judgment of the Full Court in Jarnail Singh's case (supra).

While passing of the impugned order (Annexure P-31), respondent No.2 had not taken into consideration the law laid down by the Full Bench in Jarnail Singh's case (supra). Accordingly, this writ petition is disposed of with a direction to the Director, Local Government, Punjab, to look into the matter, keeping in view the above cited decisions of the Full Bench of this Court. The needful shall be done, in accordance with law, within a period of six months from the date of receipt of the certified copy of this order.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

19.02.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No