IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-14279-2020 (O&M)
Judgment Reserved on: 25.11.2021
Judgment pronounced on: 13.12.2021

AJIT KUMAR AND ANOTHER ...Petitioners

Versus

STATE OF HARYANA AND OTHERS …Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Argued by:- Mr. Piyush Aggarwal, Advocate for the petitioners.

Mr. Aman Bahri, Additional Advocate General, Haryana for respondents No.1 and 3.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep K. Manchanda, Advocate and
Ms. Varsha Sharma, Advocate for respondent No.2-HSIIDC.

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<u>VINOD S. BHARDWAJ, J.</u>

The petitioners have come to this Court seeking a writ in the nature of Mandamus for directing the respondent-Haryana State Industrial and Infrastructure Development Corporation (herein referred to as “HSIIDC”) to consider and allot an industrial plot under the 'Land Pooling Scheme' in lieu of the land of the petitioners acquired for the public purpose namely development and setting up of Industrial Model Township, Kharkhoda (herein referred to as “IMT Kharkhoda”), District Sonepat.

2. A brief reference to the facts as emanate from the pleading reflect that the petitioners were owners of land situated in village Nizampur Khurd. The respondent-HSIIDC issued notification under Section 4 of the

Land Acquisition Act, 1894 on 03.04.2010 for the public purpose namely for setting up of the IMT Kharkhoda. The land measuring 26 Kanals 13 Marlas, under the ownership of the petitioners, was also a subject matter of the said notification. Since the petitioners were running an industry from the said land, objections in terms of Section 5-A of the erstwhile Land Acquisition Act, 1894 were filed before the Land Acquisition Officer. A recommendation in favour of release of the land is stated to have been made by the Joint Inspection Committee to the extent of the running factory on 9 Kanals-7 Marlas of the land out of the 26 Kanals 13 Marlas land owned by the petitioner. The remaining area i.e. 17 Kanals 6 Marlas was thus recommended for acquisition with a comment that if the petitioners ever wish to expand their factory at a later date, the HSIIDC shall consider to allot 1 acre site at the rate of acquisition subject to payment of the applicable IDC/EDC/statutory charges.

3. Aggrieved of the recommendations made by the Joint Inspection Committee and the consequent action of the respondent HSIIDC, the petitioners preferred CWP No. 6038 of 2013 before the High Court. The said writ petition was partly allowed vide judgment dated 08.08.2014 holding that it would be fair, just and reasonable to direct release of 1 acre land of the petitioners abutting their existing industrial unit without affecting any public utility.

4. The said judgment dated 08.08.2014 passed in C.W.P. No.6038 of 2013 tilted as ***“Ajit Industries Private Limited and others versus State of Haryana and others”*** was subject matter of challenge before the Supreme Court by two separate Special Leave Petitions by the petitioners as well as the HSIIDC. While the petitioners sought release of their remaining

9 Kanals 6 Marlas land the HSIIDC sought to seek back the 8 Kanals of land directed to be released by the Division Bench. Both the said Special Leave Petitions were dismissed by the Supreme Court vide order dated January 9, 2017. Resultantly, vide notification dated 13.06.2019, in exercise of the powers under Section 48 of the erstwhile Act, land measuring 8 Kanals- 0 Marla was released in addition to the land measuring 9 Kanals- 7 Marlas that had been left out from acquisition. Hence, only the balance land viz. 9 Kanals 6 Marlas remained under acquisition by the HSIIDC.

5. The petitioners claimed that the respondent-HSIIDC had in the meanwhile notified a Land Pooling Scheme on 14.08.2012 and that since their land meansuring 9 Kanals 6 Marlas stands acquired by the HSIIDC, hence, they seek consideration in terms of the notified Land Pooling Scheme of the HSIIDC instead of monetary compensation and R & R policy.

6. Upon notice being issued to the respondents, the matter has been represented and contested by the HSIIDC (respondent No.2-herein).

7. Parties were heard at length and the record was perused with their assistance.

SUBMISSIONS ON BEHALF OF PETITIONERS

8. While claiming entitlement to the relief as prayed for, learned counsel appearing on behalf of the petitioners submits that the respondent-HSIIDC had notified acquisition for an area measuring 3364 Acre 0 Kanal 2 Marla under Section 4 of the erstwhile Land Acquisition Act, 1894. A final declaration under Section 6 was notified for 3302 Acre 3 Kanal 13 Marla. Both the said notifications had been published prior to the notification of the 'Land Pooling Scheme' on 14.08.2012 (Annexure P-5). It has been argued that the petitioners had already approached the High Court by means of

filing of a writ petition seeking release of the entire land at the time of notification of the 'Land Pooling Scheme'. The proceedings in the said writ petition and the subsequent proceedings before the Hon'ble Supreme Court culminated on 09.01.2017. During the pendency of the aforesaid proceedings, the respondents never brought it to the notice of the petitioners or the general public about the Land Pooling Scheme notified on 14.08.2012 through any effective means. Resultantly, only about 200 acres of land was opted under the Land Pooling Scheme which was less than even 8% of the area under the IMT. Further, attention of the Court was drawn to certain specific averments raised in the writ petition and the response filed and the same are extracted as under:-

Para No.	Pleadings	Written Statement/Reply
7.	*That amid all this, petitioners came to know that the respondents had also acquired 200 acres of land under the Land Pooling Scheme for the development of Industrial Township, Kharkhoda. The respondents adopted the provisions of the Land Pooling Scheme, wherein, the respondents were to allot industrial plot to the oustees (in proportion to the area acquired) after the development of the acquired area. It would be pertinent to mention here that the only a handful of oustees were*	*That the contents of Para No.7 of the petition are admitted to the extent that 200 acres of land was acquired under the Land Pooling Scheme rest of the contents are denied being wrong and misleading. It is submitted that the Land Pooling Scheme was duly notified vide notification no.49/49/2012-41B-1 on 14.08.2012 by Industries and Commerce Department, Govt. of Haryana, whereby the land owners are given an option to become partners in the development process. It is mentioned that this Scheme is optional and not binding on the land owners. Land owners voluntarily opt for this Scheme."*

	informed by the respondents regarding the land pooling scheme, who applied under the said scheme. As no public notice was issued by the respondents inviting applications and extending benefits of Land Pooling Scheme to the oustees-applicants, majority of the Oustees are still unaware of the said scheme. It would be relevant to highlight here that because of the procedural lapse committed by the respondents, petitioners never came to know about the land pooling scheme Copy of the Land Pooling Scheme dated 14.08.2012, is appended as ***Annexure P/5.***	*Clauses 2(i) of the Land Pooling Scheme is reproduced as under: "After the Government has notified any land for development of industrial and supporting infrastructure under Section 4 of the Land Acquisition Act, the landowner(s) would have the choice to opt for developed land measuring 1200 sq. yards for each one acre of land proposed to be acquired in lieu of 'compensation package and all other benefits admissible under the R & R Policy' of the Government or accept the amount in lieu thereof for the entitled developed land at the allotment rates applicable at the time of first floatation of the estate." 126 land owners/co-owners of 7 villages successfully opted for acquisition of their land under the Land Pooling Scheme for which separate award(s) were passed by the District Revenue Officer-cum-Land Acquisition Collector, Sonipat, under Land Pooling Scheme in the year 2013 and thereafter. Draw for allocation of plot numbers to 126 land owners/co-owners has already been held on 31.08.2020 at HSIIDC Office Kundli, in the presence of village representatives, representatives of the District*

		Administration etc. and plot numbers for 293 industrial plots, allocated to such successful applicants/land owners. The petitioner was never in interested in becoming a partner in the development process under the Land Pooling Scheme, and therefore, opted for release of his/its land from acquisition."
12.	*That on 31.08.2020, the respondents conducted draw of plots and allotted developed plots to the oustees under the Land Pooling Scheme. It would also be relevant to mention here that as no public notice was issued, inviting applications under the land pooling scheme from the oustees, only 126 applicants applied for the same and were allotted 293 industrial plots. Copy of the draw of allocation of plots held on 31.08.2020, is appended as* ***Annexure P/10.*** *It would be relevant to mention here that the plots allocated to the oustees is not in accordance with the area earmarked under the land pooling scheme, rather the same have been allocated*	*That the contents of para no.12 of the petition are misleading and hence denied. It is submitted that draw for allocation of plot numbers to 126 land owners/co-owners has already been held on 31.08.2020 at HSIIDC Office Kundli, in the presence of village representatives, representatives of the District Administration etc. and plot numbers for 293 industrial plots, allocated to such successful applicants/land owners. The draw was conducted in a transparent manner and the applicants could not be invited for attending draw, due to restrictions on large gatherings on account of COVID-19 pandemic. Plot numbers for the Land Pooling Scheme were earmarked before draw of lots, as per decision of the competent authority, which is well within its right. Since the scheme is optional*

	randomly. Copy of the site plan is already appended as Annexure P/6.	*and duly notified in the year 2012, no applications were needed to be invited by the Corporation. Hence contention of the petitioner that no public notice was issued for inviting applications is wrong and denied.*
13.	*That as per the policy framed for the development and setting up of IMT, Kharkhoda, District Sonipat, the Committee had decided to reserve 163.5 acres of land for R & R Pocket and Land Pooling Plots. It is further pertinent to mention here that out of the said area, only 48 acres of developed land has been allocated under the land pooling scheme. As per the information of the petitioners, area measuring more than 20 acres of developed land under land pooling scheme is still under the ownership of the respondents. Thus the respondents would not suffer any loss, if the benefit of Land Pooling Scheme is extended to the petitioners. Copy of area demarcation report is appended as **Annexure P/11**.”*	*That the contents of para no.13 of the petition are wrong and hence denied. It is submitted that the submissions made in preliminary submissions may kindly be read as part and parcel of reply to this para.”*

9. Reference was also made to the preliminary submissions as contained in Para 7, 8 and 9. The same are also extracted hereinafter:

<table>
<tr><th>Para No.</th><th>Preliminary Submissions</th></tr>
<tr><td>7.</td><td>That it is respectfully submitted that as far as the present acquisition proceedings are concerned i.e. for development of IMT Kharkhoda, about 200 acres of land was acquired under Land Pooling Scheme. As per the claims submitted by the land owners in due time, about 126 land owners are found entitled for allotment of about 293 industrial plots of various sizes under the land pooling scheme. The details of the same are given as follows:
<table>
<tr><th>Category of Plots</th><th>Number of Plots</th></tr>
<tr><td>450 sq. mtrs,</td><td>165</td></tr>
<tr><td>800 sq. mtrs.</td><td>58</td></tr>
<tr><td>1012 sq. mtrs.</td><td>63</td></tr>
<tr><td>1800 sq. mtrs.</td><td>06</td></tr>
<tr><td>4050 sq mtrs.</td><td>01</td></tr>
<tr><td>Total</td><td>293</td></tr>
</table>
The draw of lots with regard to the allocation of plots under the Land Pooling Scheme was conducted on 31.08.2020, pursuance to which the plots have already been allotted under the said scheme and the respondent authority has discharged its obligation under the Scheme. The 2 land owners opted for the land pooling scheme from the Village Nizampur Khurd and both were found eligible in 100% and 50% category under the Land Pooling Scheme.</td></tr>
<tr><td>8.</td><td>That it is respectfully submitted that as far as the present case is concerned, the award was announced way back on 11.11.2013, the possessions was taken by the answering respondent vide rapat roznamcha no.532 dated 20.03.2013 and the compensation stands deposited in the Court of Additional District Judge, Sonipat vide cheque no. 932121 dated 16.11.2016. Further, the land of the petitioners admeasuring 8 Kanal 0 Marla falling in Khasra No.4//9(0-10), 10/2(0-19), 11(2-00), 12/1(3-08), 12/4(0-16) & 13/1/2(0-07) was released u/s 48 of the 1894 Act vide notification</td></tr>
</table>

	*dated 03.06.2019. As such the petitioner failedto apply before the cut off date and thus after almost 8 years, that too when the land owners found eligible under the Scheme has been allotted the plots subject to the terms and conditions; the petitioner has no right to be considered under the Land Pooling Scheme and doing so would lead to an anomal*ous *situation.*
9.	*That it is respectfully submitted that as far as the claim of the petitioners regarding not applying under the land pooling scheme, 2012 is concerned, it would be relevant to mention Clause 8(ii) of land pooling scheme notified on 14.08.2012 wherein, the cut off date to exercise the option of applying in land pooling scheme in writing within a period of 60 days of issuance of the notifications u/s 4 and 6 of the 1894 Act and period of four or more months is available of the announcement of award. Clause 8(ii) of the land pooling scheme is reproduced hereunder for kind perusal of this Hon'ble Court.* *"..(ii) A one-time opportunity of exercise of option under this scheme shall also be available to the land owners in respect of the current acquisition proceedings for aforesaid purposes where notifications under Section 4 or Section 6 of the Act have been issued and the period available for announcement of the Award is four months or more. The land owners will be required to exercise their options in writing within a period of 60 days of the issue of this notification."* *From the bare perusal of the afore-mentioned Clause 8(ii), it is crystal clear that if any landowner wanted to exercise its right to apply under the land pooling scheme, 2012, it has to be done within the prescribed period of 60 days. As far as the plea of the petitioner w.r.t the earlier challenge to the acquisition due to which the petitioners could not applied under the 2012 scheme is concerned, it would be pertinent to mention here that the petitioners cannot avail the parallel benefits. On one hand the petitioner had challenged the acquisitions proceedings by way of writ petition bearing CWP no.6038 of 2013 wherein, this Hon'ble Court directed the answering respondents to release the land of the petitioner and further observed that the petitioner shall utilize the released vacant land only for the expansion of the industry or allied services, shall not alienate or*

	transfer it for profiteering and shall deposit the EDC and IDC for the development of the site and on the other hand the petitioner is now claiming to be considered under the land pooling scheme."

10. While making reference to the aforesaid pleadings, it has been suggested by the Counsel for the petitioners that there is no denial in the written statement to the averment that no public notice was issued informing the land owners about the notification of the Land Pooling Scheme. As a result whereof, majority of the oustees remained unaware of the scheme. It has also been urged that the specific averment with respect to availability of developed land to accommodate other land owners exercising option under the 'Land pooling Scheme' has also not been denied. As there was no notice/information of the Land Pooling Scheme, the petitioners opted for consideration of their claim under Land Pooling Scheme upon coming to know of the same in July, 2020.

11. Learned counsel on behalf of the petitioners has also placed reliance upon a judgment of the Full Bench in ***CWP No. 22252 of 2016*** decided on 22.11.2017 and specifically to question No. 7 answered by the Full Bench in para No.50. The same is extracted as under :

> ***"Re: Question No. 7***
>
> ***What is the right of an oustee who does not exercise his right of allotment when it first accrues or of an oustee who does not get a plot though he applies for it?***
>
> > *49. Questions-5 and 6 raised in Sandeep's case and the answer of the Division Bench of this Court thereto are as follow:-*
> >
> > "***Question No.5.*** *Whether the failure to apply for a plot in response to advertisement published at one stage entitles a oustees to apply for allotment of a*

plot as and when the advertisements are issued subsequently till such time the plots are available within overall limit of 50% of the total plots in a sector?

49. Since the oustees form a separate and distinct category, failure to apply in response to an advertisement will not dis-entitle an oustee from submitting application at a subsequent stage as and when advertisement is again issued inviting applications for allotment of plots. The failure to apply in response to one or more advertisements does not deprive the oustees of their rights of rehabilitation or their status as that of an oustee.

The advertisements inviting applications for allotment of plots are to be issued after determining the plots available in each sector for reserved categories including that of oustees. HUDA is expected to invite applications in respect of such plots in each sector. Therefore, the failure to apply in response to an advertisement at one stage will not dis-entitle an oustee to apply for a plot at a subsequent stage.

Question No.6. *Whether an oustee can be permitted to raise a grievance in respect of non-allotment of a plot on failure to apply for a plot in pursuance of public advertisement issued for the reason of delay and laches?*

50. We do not find any merit in the argument raised by Mr. Jain that there can be any delay and laches, if an application is not made for allotment of plot in pursuance of public advertisement issued at one stage or the other. An oustee, whose land has been acquired, does not lose his status as that of an oustee merely for the reason that he has not *applied for a plot at an earlier stage. He has a right to seek allotment of a plot as a separate and distinct category as and when advertisements are issued inviting applications from the eligible applicants including the oustees."*

50. Thus an oustee who is not allotted a plot although, he applied for it, does not lose his entitlement to be considered for the allotment of a plot in future under the same category. Even if an oustee does not apply in response to the advertisement, he is not disentitled from submitting an application for the allotment of a plot under the oustee category subsequently. The price at which the allotment is to be made will be dealt with next."

12. The counsel thus argued that being an oustee, he does not loose his entitlement to be considered for allotment of plot even in future. Reference was also made to a Division Bench Judgment of this Court in CWP No. 14543 of 2011 titled as ***Mohd. Akram and others versus U.T. Chandigarh and others*** decided on 06.09.2012. Para Nos 5 & 7 of the said order are extracted as under :

"5. We have heard learned counsel for the parties and find that the petitioners have submitted various representations and also approached this Court time and again but they were never informed that they were to apply a allotment of dwelling unit in a proper format along with earnest money. In the absence of any communication to that effect, the petitioners under mistaken belief, can be said to be defaulted in not applying for any dwelling units in terms of 1996 scheme.

7. To give meaningful relief to the petitioners in view of their long pending demand and the

> *interpretation keeping in view the purpose of scheme, the Housing Board is directed to reserve plots for the oustees, whose claim for allotment is pending, when it floats any new housing scheme by reserving certain percentage of dwelling units for the oustees under the new policy."*

No other point was urged during the course of argument on behalf of the petitioners.

SUBMISSIONS ON BEHALF OF RESPONDENT-HSIIDC

13. Mr. Ankur Mittal, Advocate appearing on behalf of HSIIDC has, while referring to the paragaraphs of the written statement extracted above and to the submissions made in the written statement, contended that the option under the land pooling had to be exercised by the land owners in writing in the prescribed form. Even though the Notification under Sections 4 and 6 had been issued prior to the Land Pooling Scheme, however, the scheme contemplated grant of one time opportunity to the land owners to exercise their options in writing within period of 60 days of the issuance of the Notification dated 14.08.2012 (Annexure P-5). The information by the land owners in advance was essential for the HSIIDC to plan its resources and that in the absence of exercise of any option by the petitioners, compensation in lieu of the acquired land of the petitioners stood deposited in the Court of learned Additional District Jugde, Sonepat vide cheque No. 932121 dated 16.11.2016. Having failed to apply before the cut off date prescribed under the scheme, the applications submitted at the behest of the petitioners on 31.07.2020 could not be considered under the scheme after a delay of nearly 8 years. It has been vehemently argued by the Advocate on behalf of the HSIIDC that the scheme in question has to be read in its

entirety and the clauses determining a cut off date cannot be ignored while ascertaining the entitlement of the land owner to exercise an option under the Land Pooling Scheme notified on 14.08.2012. Attention was also drawn to certain clauses/terms of the Land Pooling Scheme which are extracted as under:

> *"**No.49/49/2012-41B-1**.-The Industries & Commerce Department acquires land for development of industrial infrastructure in a planned manner by the Haryana State Industrial & Infrastructure Development Corporation as the State's Nodal Agency for the purpose. The land for the purpose is acquired under the provisions of the Land Acquisition Act, 1894. The Government has also formulated its 'Land Acquisition and R & R Policy' dated 09th November, 2010 in this behalf whereby the interests of land owners are duly protected with provisions for (i) minimum floor rates so as to ensure payment of market linked compensation, and (ii) a number of benefits under the Rehabilitation and Resettlement (R & R) Policy, including payment of Annuity for a period of 33 years, which has been hailed as a model throughout the Country.*
>
> ***'Land Pooling Scheme' for development of industrial infrastructure***
>
> *The Industries and Commerce Department acquires land for development of industrial infrastructure in a planned manner by the Haryana State Industrial & Infrastructure Development Corporation as the State's Nodal Agency for the purpose. The land for the purpose is acquired under the provisions of the Land Acquisition Act, 1894. The Government has also formulated its 'Land Acquisition and R& R Policy' dated 09th November, 2010 in this behalf whereby the interests of land owners are*

duly protected with provisions for (i) minimum floor rates so as to ensure payment of market linked compensation, and (ii) a number of benefits under the Rehabilitation and Resettlement (R&R) Policy, including payment of Annuity for a period of 33 years, which has been hailed as a model throughout the country.

2. The Government has now decided to introduce a 'Land Pooling Scheme' whereby the land owners are given an option to become partners in the development process. The salient features of this Land Pooling Scheme are as follows:

(i) After the Government has notified any land for acquisition for development of industrial and supporting infrastructure under Section 4 of the Land Acquisition Act, the landowner(s) would have the choice to opt for developed land measuring 1200 sq. yards for each one acre of land proposed to be acquired in lieu of the 'compensation package and all other benefits admissible under the R& R Policy' of the Government or accept the amount in lieu thereof for the entitled developed land at the allotment rates applicable at time of first floatation of the estate;

(ii) The landowner(s) would be eligible to participate in the Land Pooling Scheme only if a minimum of ½ acre or more of his/their land is acquired;

(iii) The entitlement of developed land shall be in proportion to the land acquired/pooled by the landowner (s) @ 1200 sq. yards per acre;

(iv) The option for the Land Pooling Scheme will have to be exercised by the landowner(s) in writing in the prescribed form within a period of 4 months of the publication of Section 4 Notification.

3. The Landowner shall also have the option to opt for the 'Land Pooling Scheme' in respect of part of his land being acquired and accept 'compensation along with the R &R Benefits' in respect of the balance land provided:

(i) The minimum land being acquired is one acre; and

(ii) The option for the 'Land Pooling Scheme' and the Compensation along with R & R Benefits' is split in the ratio of 50: 50 of his land being acquired."

*8. **Applicability:***

(i) The <u>Land Pooling Scheme shall be applicable</u> in respect of <u>acquisition proceedings initiated</u> for the purposes of development <u>and expansion of industrial Model Townships,</u> Industrial Estates/Parks pursuant to this Notification and shall take effect from the date of its Notification in the Official Gazette.

(ii) A one time opportunity of exercise of option under this scheme shall also be available to the land owners in respect of the current acquisition proceedings for aforesaid purposes where Notification under Section 4 or Section 6 of the Act have been issued and the period available for announcement of the Award is four months or more. <u>The land owners will be required to exercise their options in writing within a period of 60 days of the issue of this Notification.</u>

14. By making a reference to the aforesaid provisions, submission has been made on behalf of the HSIIDC that the benefits under the Land Pooling Scheme are distinct and separate from the benefits under the Rehabilitation and Resettlement Policy and that the petitioners cannot claim themselves to be entitled to the benefits under the Land Pooling Scheme by adverting to the claim as 'Oustee' in terms of the R & R policy. Benefits under the respective policy/schemes have to be seen within the fold of the respective policy/scheme. Having not approached the authority within the prescribed time under the scheme, the petitioners lose their right of consideration under the scheme. It is further, contended that the judgments cited by the petitioners are not applicable since they relate to oustees whereas the issue involved in the present case relates to the "Land Pooling Scheme."

15. No other argument was raised or judgment cited on behalf of the respondent-HSIIDC.

<u>QUESTION</u>

16. The question which thus arises before us for determination is as to whether the petitioners are entitled to be considered under the Land Pooling Scheme notified on 14.08.2012 or they would be debarred from such consideration having not exercised the option within the prescribed time under the scheme?

<u>DISCUSSION</u>

17. The scheme viz. 'Land Pooling Scheme', in its very nature has been propagated by the respondent-HSIIDC as a welfare scheme. While dealing with the Rules of Construction, the Hon'ble Supreme Court in ***Bhudan Singh and another versus Nabi Bux and another: 1969 (2) Supreme Court Cases 481*** observed as under:

> *"9. Before considering the meaning of the word "held" in Section 9, it is necessary to mention that it is proper to assume that the <u>law makers who are the representatives of the people enact laws which the society considers as honest, fair and equitable. The object of every legislation is to advance public welfare. In other words as observed by Crawford in his book on "Statutory Constructions" that the entire legislative process is influenced by considerations of justice and reason. Justice and reasons constitute the great general legislative intent in every piece of legislation. Consequently where the suggested construction operates harshly, ridiculously or in any other manner contrary to prevailing conceptions of justice and reason, in most instance, it would seem that the apparent or suggested meaning of the statute, was not</u>*

> *the one intended by the law makers. In the absence of some other indication that the harsh or ridiculous effect was actually intended by the legislature, there is little reason to believe that it represents the legislative intent.*

18. Subsequently, in the matter of ***Mor Modern Cooperative Transport Society Ltd. Versus Financial Commissioner & Secretary to Govt. of Haryana and another : (2002) 6 Supreme Court cases 269*** the Hon'ble Supreme Court observed as under:

> "*14. ....It is trite to say that the intention of the legislature must be found by reading the statue as a whole. The court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed but to the entire statue; it must compare the clause with the other parts of the law, and the setting in which the clause to be interpreted occurs. The rule is of general application as even the plainest terms may be controlled by the context. The expressions used in a statue should ordinarily be understood in a sense in which they best harmonize with the object of the statue, and which effectuate the object of the legislature. Therefore, when two interpretations are feasible, the court will prefer that which advances the remedy and suppress the mischief as the legislative envisioned..........*"

19. Further, in the matter of ***Transport Corporation of India versus Employees' State Insurance Corporation:*** **(2000) I SCC 332**, the Hon'ble Supreme Court held as under :

> "*27. Before parting with the discussion on this point, it is necessary to keep in view the salient fact that the Act is a beneficial piece of legislation intended to provide*

> *benefits to employees in case of sickness, maternity, employment injury and for certain other matters in relation thereto. It is enacted with a view to ensuring social welfare and for providing safe insurance cover to employees who were likely to suffer from various physical illnesses during the course of their employment. Such a beneficial piece of legislation has to be construed in its correct perspective so as to fructify the legislative intention underlying its enactment. When two views are possible on its applicability to a given set of employees, that view which furthers the legislative intention should be preferred to the one which would frustrate it…..”*

20. The respondent-HSIIDC has claimed Land Pooling Scheme to be a welfare scheme. In the backdrop of aforesaid judicial pronouncements and considering the objects of the scheme being to protect the interest of land owners by making them partners in development and extending the benefit of the scheme even to the land owners whoses acquisition process had been initiated prior to the notification of the Land Pooling Scheme, the respondent-HSIIDC has undisputedly brought such land owners within the fold of the welfare scheme. A perusal of Clause 8 (i) of the said scheme further establishes that the scheme is not “one time measure” but is a subsisting scheme to be applied for the purpose of development and expansion of Industrial Model Townships. Clause 2(i) of the Scheme shows that the land owner would have the choice, upon notification of his land for acquisition, to opt for developed land measuring 1200 square yards for each acre of land proposed to be acquired “in lieu of the compensation package and all other benefits admissible under the R & R policy of the Government. It is thus evident that the Land Pooling Scheme has been projected as an

improvement over the R & R policy and that having exercised the option, benefits only under the scheme are admissible to the land owners. Where however, the land holding under acquisition is bigger than one Acre, the land owner has been given the choice to opt partly under the Land Pooling Scheme and to accept compensation along with the R & R benefits against the balance land.

21. By placing reliance upon the object of the scheme & on the aforesaid judicial pronouncements, we are of the opinion that the land pooling scheme is a social welfare scheme intended to promote welfare of the land owner and deserves to be interpreted on the parameter of a welfare scheme. It was never designed as a one time measure, rather, the scheme aimed to extend the benefit even to the land owners whose land stood acquired prior in point of time. The interpretation now proposed by the respondent-HSIIDC runs contrary to the object of the scheme. The respondent-Corporation having claimed the Land Pooling Scheme as a benevolent and welfare scheme, it is incumbent upon the respondent-HSIIDC to apply the yardsticks of welfare scheme while considering the claims of land owners.

22. The arguments have been raised on behalf of the HSIIDC that the option in question was to be exercised by the land owners within a period of 60 days in terms of Clause 8 (ii) of the Land Pooling Scheme and having failed to opt, the same cannot be considered now also for the following reasons:-

i) Finality has to be given to the proceedings at a particular point in time;

ii) Monetary compensation in respect of the land already stands deposited with the competent Court;

iii) That the Land Pooling Scheme is separate and distinct from the rehabilitation and resettlement policy of Land Pooling Scheme and the petitioners are not 'oustees' within the meaning of the Land Pooling Scheme.

23. While dealing with the 3rd objection first, we are of the view that the salient features of the scheme notified by the respondents on 14.08.2012 establish that the option for the developed land measuring 1200 square yards for each one acre of land proposed to be acquired was in lieu of 'compensation package and all other benefits admissible under the R&R policy'. Upon exercise of the option under the Land Pooling Scheme, the land owner waives his right to be considered under the R & R policy. The scheme thus over-rides the R & R policy. Resultantly, the Land Pooling Scheme 'and/or' Rehabilitation and Resettlement policy operate to mutual exclusions in their area of operation. As the policies are being exercised to mutual exclusion, hence, HSIIDC cannot be permitted to contend that the terms "oustee" would not stand attracted to the claim of a land owner under the 'Land Pooling Scheme' and can only be used in reference to the R & R policy. Once all the benefits under the compensation package as well as the R & R policy stand merged in the Land Pooling Scheme, the status of the land owner as acknowledged under the compensation package and R & R policy would be available to the land owner while availing the benefits under the Land Pooling Scheme.

24. The argument on behalf of respondent-HSIIDC that the land owner cannot be considered as an oustee under the Land Pooling Scheme and that such consideration can only be done under the R & R policy, in our view is a ruse. The Land Pooling Scheme claims to combine the benefits of monetary compensation as well as the Rehabilitation and Resettlement Scheme (under which claim as oustee is to be considered). Resultantly, even though the term oustee has not been used under the Land Pooling Scheme, however, the land owner remains within the same identity while availing of the Land Pooling Scheme. The suggested interpretation that the land owner under the Land Pooling Scheme is not an oustee, in our view would not be a correct approach in terms of the objects enshrined in the Land Pooling Scheme.

25. Further, a Full Bench of this Hon'ble Court while dealing with the rights of oustees in the matter of ***"Rajiv Manchanda and others vesus Haryana Urban Development Authority and another***" in CWP No. 22252 of 2016 held that when an oustee does not apply in response to an advertisement, he cannot be disentitled from submitting an application for allotment of a plot under the oustee category subsequently. Having held that the Land Pooling Scheme is not a 'one time measure' and is rather a subsisting scheme, there is no reason for us to conclude that the rights of the Land Owners would come to an end on his failure to exercise an option. Rather, the same would stand determined on 'exercise of an option'.

26. The same leads us to determine the effect of Clause 8(ii) of the scheme which calls upon the land owners to exercise the option in writing within period of 60 days and as to whether the land owner looses his right to

exercise his option upon his failure to opt. It would be appropriate for us to extract the phrase used in the Land Pooling Scheme at different places.

> 2. *The Government has now decided to introduce a 'Land Pooling Scheme' whereby the land owners are given an **option** to become partners in the development process. The salient features of the Land Pooling Scheme are as follows:*
>
> *(i) After the Government has notified any land for acquisition for development of industrial and supporting infrastructure under Section 4 of the Land Acquisition Act, the landowner(s) would have the **choice to opt** for developed land measuring 1200 sq. yards for each one acre of land proposed to be acquired in lieu of the 'compensation package and all other benefits admissible under the R&R Policy of the Government or accept the amount in lieu thereof for the entitled developed land at the allotment rates applicable at time of first floatation of the estate;*
>
> *(ii) xx xxx xx*
>
> *(iii) xx xx xx*
>
> *(iv) The **option** for the Land Pooling Scheme **will have to be exercised by the landowner(s)** in writing in the prescribed form within a period of 4 months of the publication of Section 4 Notification;*
>
> *(v) Where a landowner **opts** for the 'developed land' under the Land Pooling Scheme, he would have the freedom to sell his developed land in the open market. The land use in respect of such land shall remain 'industrial' and shall not change under any circumstances. However, any subsequent purchaser of land shall be governed by the Estate Management Procedures of the HSIIDC as applicable from time to time;*
>
> *(vi) The landowner(s), who opts for the Land Pooling Scheme, will also have the **option to** request for payment of part amount upfront at the time of Award and adjust the balance amount at the time of floatation of plots after accounting for interest applied @ 9% per annum on the advance amount paid. The part advance shall be no more than the amount determined as the minimum floor rate for the area. The different sub-set of options under this option will be as under:*

(a) The landowner may request for allotment of developed land as per his entitlement at the time of first floatation on refund of the amount availed earlier at the time of Award, along with interest calculated @ 9% per annum, to the acquiring agency of the Government.

or

(b) The landowner may opt for allotment of residual land as per his entitlement after adjustment of the advance amount paid to him along with interest thereon computed @ 9% per annum. In this case, his entitlement for the residual land shall be worked out on the basis of allotment price determined at the time of first floatation.

or

(c) The landowner may opt for payment of the residual amount after adjustment of the amount paid in advance along with interest thereon computed @ 9% per annum. His entitlement for the residual amount shall be worked out on the basis of allotment price determined at the time of first floatation.

3. The landowner shall also have the ***option to opt*** *for the 'Land Pooling Scheme' in respect of part of his land being acquired and accept 'compensation along with the R&R benefits' in respect of the balance land provided;*

(i) xx xxx xxx

(ii) The ***option*** *for the 'Land pooling Scheme' and the 'Compensation along with R &R Benefits' is split in the ratio of 50:50 of his land being acquired.*

4. xx xx xx xx xx

5. xx xx xx xx xx

6. xx xx xx xx xx

7. xx xx xx xx xx

8. ***Applicability:***

(i) xx xx xx

(ii) A one time opportunity of exercise of option under this scheme shall also be available to the land owners in respect of the current acquisition proceedings for aforesaid purposes where Notification under Section 4 or Section 6 of the Act have been issued and the period available for announcement of the Award is four months or

> *more. The land owners will be required to <u>exercise their options in writing</u> within a period of 60 days of the issue of this Notification.*

27. A perusal of the words/phrase used in the notification of Land Pooling Scheme clearly show that the land owner had to "exercise an option" from amongst the 'Land Pooling Scheme' or 'acceptance of the compensation package and the benefits admissible under the R & R policy'. We are now to examine as to when can a land owner be construed to "exercise an option" within the aegis of the scheme.

28. 'Option' has been defend in the Black's Law Dictionary; 9th edition (2009 print) and reads thus:

> "***option**, n.(17c) 1. The right or power to choose; something that may be chosen<the lawyer was running out of options for settlement."*

29. An 'exercise of an option' thus contains the following ingredients:

> *i) Knowledge of the Options/choices.*
>
> *ii) Conscious election from amongst the available options/choices.*
>
> *iii) Consequential act based upon such conscious election.*

30. An 'exercise of an option' hence necessarily denotes conscious decision making. Failure to exercise an option on account of lack of information about the scheme cannot be presumed as <u>'exercise of an option'.</u> It is undisputed that the petitioners had filed writ petition challenging the acquisition proceedings before the High Court and the respondents were duly represented in the said proceedings. The petition having being partly allowed, the same was subject matter of a further challenge before the

Supreme Court. It is not the case set up by the respondent-HSIIDC that at any time during the pendency of the said proceedings before the High Court or before the Supreme Court, the notification of the Land Pooling Scheme was ever made known to the petitioners. The said aspect gains special significance considering that the petitioners have leveled specific allegations in Para No.7 against the conduct of the officials of the respondent-HSIIDC in not giving wide publicity of the scheme and apprising about it to only a handful of land owners. The same is further evident from the fact that the people opting under the scheme was for an area less than 08% of the total land acquired and only 2 person from the revenue estate of the petitioners had opted under the Land Pooling Scheme. No valid explanation has been furnished by the respondent-Corporation as to why it abstained from giving wide publicity to the scheme aimed for the welfare of the land owners. Even though publication of the scheme in the gazette may be deemed as notice to the general public, however, this Court cannot be oblivious of the fact that gazette notifications so published are ordinarily not available to the common man. Considering that the scheme was notified in the year 2012 (almost a decade ago), even the access to Internet and availability of the scheme for the information of general public would have been restricted.

31. The parameters and test of awareness as applicable to a man of law cannot be held applicable to a common man on streets. Court of law is expected to step into the shoes of a litigant and cannot be oblivious of the ground reality. Hence the objection of the HSIIDC that mere publication of notification is good enough to preclude the ignorant landowner from availing benefits that are more benevolent to him would not be tenable. Court of law is always empowered to examine whether any additional

procedural safeguard is required to be followed in ensuring that the object of the scheme is well served and fairness in action is established.

32. Even though no detailed procedure for inviting applications under the 'Land Pooling Scheme' and manner thereof has been prescribed, however, Doctrine of Fair Play does come into operation. The Hon'ble Supreme Court had in the matter of ***Natwar Singh Versus Director of Enforcement*** reported as ***(2010) 13 S.C.C.255*** observed as under:

> "26. *Even in the application of the doctrine of fair play there must be real flexibility. There must also have been caused some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter to be dealt with and so forth. Can the Courts supplement the statutory procedures with requirements over and above those specified? In order to ensure a fair hearing, courts can insist and require additional steps as long as such steps would not frustrate the apparent purpose of the legislation.*
>
> *20. In Lloyd Vs. McMahon2, Lord Bridge observed:*
>
> *"My Lords, the so-called rules of natural justice are not engraved on tablets of stone. To use the phrase which better expresses the underlying concept, what the requirements of fairness demand when any body, domestic, administrative or judicial, has to make a decision which will affect the rights of individuals depends on the character of the decision-making body, the kind of decision it has to make and the statutory or other framework in which it operates. In particular, it is well-established that when a statute has conferred on any*

body the power to make decisions affecting individuals, the courts will not only require the procedure prescribed by the statute to be followed, but will readily imply so much and no more to be introduced by way of additional procedural safeguards as will ensure the attainment of fairness".

21. As Lord Reid said in Wiseman Vs. Boardman3:

"…For a long time the courts have, without objection from Parliament, supplemented procedure laid down in legislation where they have found that to be necessary for this purpose..."

22. It is thus clear that the extent of applicability of principles of natural justice depends upon the nature of inquiry, the consequences that may visit a person after such inquiry from out of the decision pursuant to such inquiry.

33. A perusal of the same shows that Courts would readily imply such additional procedural safeguards as would ensure fairness. The procedural safeguards have to be tested on the consequences that may visit a person affected or who claims to be prejudiced.

34. Since 'Prejudice' has to be determined and balanced while examining the 'Doctrine of Fairness', it is essential to examine import of the word 'Prejudice' and to determine whether diverse claims can be balanced or not.

35. The word prejudice has further been explained in various references and as relied upon by the Hon'ble Supreme Court in the matter of ***Manhari Bhai Muljit Bhai Kakadia verus Shailesh Bhai Mohan Bhai Patel : (2012) 10.SCC 517*** which is extracted as under:-

"47.1. Black's Law Dictionary (8th Edn.) explains "prejudice" to mean damage or detriment to one's legal rights or claims. Concise Oxford English

Dictionary [10th Edn., Revised] defines "prejudice" as under:

> "Prejudice.—n.(*I*) preconceived opinion that is not based on reason or actual experience. >>unjust behaviour formed on such a basis. (2) chiefly Law harm or injury that results or may result from some action or judgment.>> v. (*I*) give rise to prejudice in (someone); make biased. (2) cause harm to (a state of affairs)."

47.2. *Webster Comprehensive Dictionary* (International Edn.) explains "prejudice" to mean (*i*) a judgment or opinion, favourable or unfavourable, formed beforehand or without due examination...detriment arising from a hasty and unfair judgment; injury; harm.

47.3 P. Ramanatha Aiyar; the Law Lexicon (*The Encyclopaedic Law Dictionary*) explains "prejudice" to mean injurious effect, injury to or impairment of a right, claim, statement, etc.

47.4. "Prejudice" is generally defined as meaning "to the harm, to the injury, to the disadvantage of someone. It also means injury or loss.

36. Before any person can claim to be prejudiced, he must satisfy the following condition:

i) Accrual of a right/interest; and

ii) Alteration of such right/interest to the detriment of such person.

37. The Land Pooling Scheme is a compensatory scheme in lieu of the acquired land in a non-monetary forum. Instead of making payment for the acquired land in terms of determined value at market prices and benefits

under R & R policy, the land owner is compensated by allotting a developed plot measuring 1200 sq. yards for each Acre of land acquired. It has further gone uncontroverted that the monetary compensation deposited by the Corporation with the Additional District Judge, Sonepat has not been withdrawn. Hence, the petitioners have not availed of any compensation and/or benefits under the R & R policy or the 'Land Pooling Scheme' so far. The Corporation is under statutory obligation to pay the land owners in accordance with the value of land assessed. A mere change in the mode of payment viz. from the monetary compensation as awarded to the 'Land Pooling Scheme' does not cause any prejudice to the Corporation. It is under statutory obligation to compensate the land owners for the land acquired and the said obligation has to be satisfactorily discharged.

38. In the instant case, it cannot be said that merely by change in the manner in which the compensation in lieu of land acquired is to be given to the land owner, it would cause prejudice and is detrimental to the interest of the respondent No.2-Corporation.

39. The respondent-Corporation has failed to point out any material prejudice that may occasion or be suffered by the Corporation on account of consideration of the claim of the petitioners for allotment of developed plot in lieu of the land acquired. It is not the case established by Corporation that it does not possess sufficient land in order to meet the claim. The fact that the compensation in question having been deposited but not withdrawn being undisputed, we are inclined to observe that equities in such circumstances can be balanced. Where the respondent-Corporation fails to demonstrate any irreparable loss or material prejudice to its rights, we would be inclined to balance the equities in favour of the land owner.

40. Upon weighing the prejudice being claimed by the petitioners viz. a viz. the prejudice pleaded by the respondent-HSIIDC, the scale clearly tilts in favour of petitioners-land owners. The prejudice caused to them outweighs the prejudice which HSIIDC may claim to suffer.

41. The Corporation cannot be permitted to take benefit of its own wrongs and to defeat the rights accrued by way of legitimate expectations and doctrine of fair play in favour of the land owners. The Corporation having failed to demonstrate satisfactory discharge of its obligation to create awareness amongst the land owners so as to facilitate the land owner to exercise an option clearly disentitle the Corporation to now seek aid of the failure on the part of the land owner only due to his lack of knowledge about the scheme.

42. Learned counsel appearing on behalf of the respondent No.2-Corporation has laid much emphasis on need to finalize the scheme as the main foundation to reject the claim of land owners. Even though the explanation may be emphatic, however, the same is not satisfactory considering that the Corporation failed to discharge its responsibility of apprising the land owners about the existing scheme and to offer to them an opportunity to exercise an option. The failure on the part of the land owner to exercise an option on account of lack of information and knowledge of the scheme coupled with the evident failure on the part of the respondent-Corporation to apprise the land owners about existence of the scheme and evasive response to the specific allegations of deliberate misconduct against the respondent-Corporation leads us to conclude that a valuable right had accrued in favour of land owner to be given an opportunity to exercise an option. The respondent-Corporation, by its acts of omission deprived the

land owner of his right to exercise an option. The benefit of such lapse cannot be capitalized in favour of the Corporation.

43. Considering the circumstances of the case on the aforesaid parameters, we can safely conclude that there was no conscious act as may be termed to be 'exercise of an option' by the petitioners. Further, upon consideration of the rival submissions of the parties in light of the conclusive judicial pronouncement on the Doctrine of Fairness coupled with the failure on the part of the respondent-Corporation to establish a prejudice to its rights or an exercise of option by the land owners, we are of the view that the claim of the petitioners for being considered under the Land Pooling Scheme cannot be denied under a ruse created by the Corporation. In coming to the said finding, we are also conscious of the fact that the petitioners specifically alleged that the respondents were discreet in their functioning and only made select few persons aware of the Land Pooling Scheme. The said specific allegation has been dealt with by the respondent-HSIIDC in an evasive manner. Further, the specific pleading of the petitioners to the effect that the respondent-HSIIDC still has land available to satisfy the claim of the petitioners under the Land Pooling Scheme has also not been controverted. The respondent-Corporation, being agency and instrumentality of the State, ought to have come clear on the specific averments. The same thus leaves this Court with no option but to infer that the respondents-authorities do have sufficient land available with them in order to consider the request made by the petitioners.

44. Having come to the above conclusion that there was no exercise of option by the land owners under the Land Pooling Scheme on the established doctrine of fairness and the welfare objective of the scheme, we

are of a view that a vested right accrued in favour of the land owners to be offered opportunity to seek consideration under the Land Pooling Scheme.

45. Having recorded our views as above, we now advert to the next issue as to whether the petitioners have lost their right to exercise the option under the 'Land Pooling Scheme' after the expiry of the period as contemplated in Clause 8 (ii) of the 'Land Pooling Scheme'.

46. A perusal of Clause 8 of the said scheme shows that the land pooling scheme is a subsisting scheme and was intended to be made applicable also with respect to the land owners whoses' land had been subject matter of acquisition prior to the publication of the notification dated 14.08.2012. Clause 8 (ii) of the scheme although contemplates a land owner to <u>exercise an option</u> within a period of 60 days of the issuance of the notification, however, it does not prescribe any consequences if a land owner does not exercise the said option within the said period. Considering that the object of the scheme was "to give land owner the option to become partners in the development process", we are inclined to assign a meaning to the scheme as is likely to advance the object of the scheme. Various clauses of the said scheme referred to in the preceding Paras show that the same mandated an affirmative/positive exercise of an option by the land owner and that too in the manner prescribed.

47. The salient features of the 'Land Pooling Scheme' which are part of the notification show that the same was aimed to provide the land owners 'with an option' to become partners in the development process. The scheme intended to pay compensation for the land acquired in the form of allotment of a developed plot measuring 1200 square yards for each acre of land proposed to be acquired in lieu of the <u>'compensation package and all</u>

other benefits admissible under the R & R policy of the Government.' It was also contemplated in the scheme that the 'option was to be exercised' in the prescribed form. Clause-III of the scheme stipulated that the land owner could 'exercise the option' for the 'Land Pooling Scheme' in respect of part of land being acquired and accept 'compensation along with R&R benefits' in respect of the balance land subject to the conditions prescribed thereunder. Clause 8 (i) of the said scheme keeps the scheme of land pooling applicable to the Industrial Model Township initiated after the notification dated 14.08.2012. The 'one time opportunity' of exercise of option under the scheme was made available to the land owners in respect of the acquisition proceedings that had already been initiated prior to the notification of the 'Land Pooling Scheme'. The established object of the scheme is thus to reach out to the maximum land owners.

48. The facts of the case establish that the petitioners had been pursuing their remedy in accordance with law for seeking higher gains. The petitioners partly succeeded in their efforts before the Hon'ble High Court and thereafter before the Hon'ble Supreme Court of India for seeking a release of their land. Even though exercise of the option may not have prejudiced their right to seek release of their land, however, the said legal understanding may not be applied to the land owners who nurture fears about deemed waiver of their right to seek release of their land and valid apprehension against compromising their right to seek a release of their land. Such fear cannot be said to be wholly unfounded. The test of awareness as applicable to a man of law cannot be held applicable to the man on street. Law has to step into the shoes of the person before the Court and cannot remain oblivious of their understanding of law. The respondent-Corporation

has not denied the specific allegations leveled in the pleadings about the scheme not being made known to the land owners. It has also gone uncontroverted that the respondent-HSIIDC still have developed land available at disposal in order to exhaust the claim of the petitioners herein. The respondents have also not disputed that the compensation deposited by the Corporation-HSIIDC in the year 2016 has not been withdrawn and that the application for being considered under the 'Land Pooling Scheme' was submitted by the petitioners in July, 2020 i.e. before the draw of lots was held by the respondent-HSIIDC. The non withdrawal of the monetary compensation and the composite effect of the actions establish that the petitioners had not exercised any option at all either by way of actual commission or by necessary inference.

49. In view of discussion as above, the petitioners having not exercised any right to opt under the said scheme and the nature of scheme being benevolent as well as compensatory, and the same being a subsisting scheme, we are not inclined to accept the submission of the respondent-HSIIDC that failure to exercise an option forecloses the right of the petitioners. The petitioners ought to have been considered under the Land Pooling Scheme when they exercised their option in July, 2020 i.e. before holding the draw of lots. We thus hold that the time period as stipulated in Clause 8 (ii) of the Land Pooling Scheme was only directory and it does not defeat the rights of the petitioners herein as they had not exercised any option within the 'Land Pooling Scheme'. Failure to act on account of lack of knowledge would not make out an exercise of option within the scheme. The petitioners cannot thus be said to have lost on their right to exercise an option under the Land Pooling Scheme.

50. Insofar as the other two objections pertaining to the need of finalizing the proceedings and the act of depositing the monetary compensation before the Land Acquisition Court are concerned, in our view the said reasons cannot be the basis for defeating the entitlement that had accrued in favour of the land owners. A mere inconvenience caused to the respondent-Corporation resulting in re-calculation/revision of layout etc. cannot lay valid foundation to deny benefits of a notified scheme to the land owners. It is significant to note that the petitioners have specifically contended that the respondent-Corporation has developed land available for settling out the claims of the land owners and that about 20 acres of such land ear-marked under the Land pooling Scheme remains unutilized. The said averments having not being denied, it leads to an inference that the Corporation expected revision of the lay out plan and to entertain delayed exercise of option by land owners. Else there was no reason why surplus land for consideration of claims under the Land Pooling Scheme would be available with the Corporation once it had finalized all the beneficiaries under the Land Pooling Scheme. As developed land ear-marked under land pooling is available, there would be no valid reason to deprive benefit under the scheme to the land owners against backdrop of inconvenience caused to the Corporation in carrying out a new draw for allotment of plot to the petitioners.

51. Adverting to the fact the respondent-Corporation had deposited the monetary compensation with the learned Additional District Judge, Sonepat in November, 2016, we are not inclined to accept the said reasoning against the greater prejudice that may so occasion to the land owners upon acceptance of such submission.

52. However, in order to balance the equities and to ensure that public funds that remained unutilized on account of the Corporation having deposited the same with the Court of Additional District Judge, Sonepat in the year 2016, we are of the view that the interest of public exchequer can be duly protected by directing the petitioners to pay interest on such amount @ of 5 % per annum from the date of its deposit in the Court of Additional District Judge, Sonepat. The said rate of interest has been fixed at a lower side considering that the amount in question had not been withdrawn by the petitioners and put to their own use and during the period it remained in the Court, some interest may have been earned thereupon.

CONCLUSION

53. As a result of the discussion above and having considered the submissions raised on behalf of the respective parties in light of the pleadings and judicial pronouncements referred to above, the writ petition is allowed with the following directions:-

i) That the respondent-Corporation shall hold the petitioners eligible under the Land Pooling Scheme (Annexure P-5) as notified on 14.08.2012.

ii) That the respondent-Corporation shall be entitled to seek release of its monetary compensation deposited in the Court of learned Additional District Judge, Sonepat along with any interest as may have accrued on the said amount.

iii) That the respondent-Corporation shall be entitled to claim interest @ 5% per annum on the amount of monetary compensation deposited in the Court of learned Additional District Judge, Sonepat. The amount of interest calculated at above rate shall be conveyed by the Corporation to the land owners within a period of 15 days of receipt of copy of this order and the said amount shall be deposited by the land owners within one week thereafter.

iv) That the respondent-Corporation shall hold a draw of lot for allotment of a plot to the petitioners in terms of the Land Pooling Scheme dated 14.08.2012 within a period of three months thereafter.

With the above directions, the instant petition is allowed. No orders as to costs.

(TEJINDER SINGH DHINDSA)
JUDGE

(VINOD S. BHARDWAJ)
JUDGE

13.12.2021
Vishal sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No