

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

Civil Writ Petition No.29921 of 2018(O&M)

Date of Decision: July 26, 2022

Surinder Rani and others

...Petitioners

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

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Present: - Mr.S.K.Raghuvanshi, Advocate for
Mr.Sher Singh Rathore, Advocate for the petitioner.

Mr.Rupinder Khosla Sr. Advocate assisted by
Mr.D.S.Mann, Advocate for respondent - GMADA.

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HARINDER SINGH SIDHU, J.

This petition has been filed for quashing the order dated 08.10.2018 (Annexure P-7), whereby, the claim of the petitioners for issuance of Oustee Certificate has been rejected. It is prayed that the respondents be directed to issue Oustee Certificate to the petitioners.

The land of the petitioners measuring 11 Kanals 11 Marlas situated in village Mauli Baidwan, H.B.No.4, Tehsil and district SAS Nagar, Mohali was acquired by the Department of Housing and Urban Development, Punjab for a public purpose namely for construction of Storm Sewer and Sullage Sewerage. The public purpose for which it was required is mentioned in the Award No.563 dated 23.12.2015 as under:-

“Therefore, now the area measuring 58 Kanal 1 Marla (7.25625 Acre) of village Mauli Baidwan and area measuring 32 Bigha 1 Biswa (6.67708 Acre) of village Raipur Khurd is to be taken for Storm Sewer and Sullage Sewerage, the award of

which is being announced.”

The petitioners submitted separate applications before the Land Acquisition Collector, Urban Development Department, SAS Nagar, Mohali for issuance of Oustee Certificate to enable them to avail the benefit for allotment of a plot under the Oustee Category. They also sent a legal notice. However, no action was taken on their applications/legal notice constraining them to file CWP-12929-2018, which was disposed of vide order dated 21.05.2018 with a direction to the respondents to consider and decide the legal notice of the petitioners by passing a speaking order. In compliance therewith, speaking order dated 08.10.2018 (Annexure P-7) has been passed rejecting the claim of the petitioners.

In the impugned order, it has been mentioned that the Oustee Policy dated 08.05.2013 is applicable only if the land has been acquired for public purpose mentioned in para No.1 of the Policy. Para No.1 of the Policy reads:

“The policy shall be applicable in cases where land is acquired for setting up of any Residential, Institutional , Industrial or Integrated Mix-Land Use Estate irrespective of the use of land in the Urban Estate by any Development Authority constituted under the Punjab Regional & Town Planning and Development Act, 1995. It shall also apply for land acquisitions undertaken for filling up any critical gaps to facilitate the development of any Residential, Institutional, Industrial or Integrated Mixed Land Use Estate by any private developer.”

The order states that as the land of the petitioners has not been acquired for

the aforesaid public purpose, but is for laying out sewer (Storm Sewer and Sullage Sewer) and for Master Plan Road dividing Sectors 80-84, hence, the petitioners are not entitled to get the benefit of Oustee policy.

The same ground has been reiterated in the written statement filed on behalf of the respondents.

This ground for rejection of the claim is untenable in view of the decision of this Court in a Bunch of writ petitions, including CWP-1714-2012 titled "Harmail Singh and others vs. State of Punjab and others", decided on 28.01.2013, wherein, it has been observed as under:-

"19. In our considered view, once the land is acquired for setting up the urban estate, all the expropriated owners are entitled to be treated alike and at par, irrespective of the subsequent utilization of the acquired land. Whenever a big chunk of agricultural land is acquired to develop an urban area, it is inherent in its conceptualization that the acquired land would be utilized for different but essential purposes like (i) parks, (ii) roads, (iii) sewerage or water supply, (iv) commercial area, (v) institution area, (vi) open land for future development, (vii) green belt, (viii) residential plots, (ix) multi-storeyed apartments and various other allied purposes.

20. It is not at all within the control of a land owner to insist that in the lay out plan or 'master plan' his land be earmarked for the residential plots only. The land owner is left with no concern whatsoever except to seek compensation for his acquired land. Suffice it to observe that it is for the State authorities to decide as to what would be the optimum use of the acquired land in whom the land stands vested, free from all incumbrances. It is for the Authorities to utilize the land for one or the other public purpose.

21. The owners, however, cannot be discriminated with and subjected to differential treatment on the basis of an incidental circumstance like utilization of their acquired land for varied purposes of an integrated urban development project. The classification sought to be brought in is neither based upon an intelligible criteria nor has any rationale with the object sought to be achieved through the Oustee Policy. The purpose of

the Rehabilitation/Oustee Policy is to rehabilitate all the land owners whose lands have been acquired for the planned development and setting up of an urban estate. Once it is proved that the land of the petitioners was also acquired for that very purpose, the microscopic classification suggested by the respondents to deprive a group of land owners of the benefits of a welfare policy, cannot be accepted. Such an artificial grouping cannot stand the test of Article 14 of the Constitution.”

It has been held that the owners whose land has been acquired, cannot be discriminated against in the matter of the benefits available under the Oustee policy only on the ground of purpose of acquisition. It has been held that such discrimination would be violative of Article 14 of the Constitution.

Thus, the petitioners cannot be denied the benefit of the Oustee Policy solely on the ground that their land was acquired for laying out sewer (Storm Sewer and Sullage Sewer) and for Master Plan Road dividing Sectors 80-84 and that this purpose is not mentioned in para 1 of the Oustee Policy.

Thus, the writ petition is allowed. The impugned order dated 08.10.2018 (Annexure P-7) is quashed. The respondents are directed to issue Oustee Certificates to the petitioners and consider their claims for allotments of plots in terms of the applicable policy.

(JASJIT SINGH BEDI)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 26, 2022

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No