

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

CWP No. 26245-2021

Date of Decision: 02.06.2022 (O&M)

Pawan Kumar Bhardwaj

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

**Present: Mr. Pankaj Yadav, Advocate,
for the applicant-petitioner.**

Mr. Deepak Bhardwaj, D.A.G., Haryana.

**Mr. P.S. Chauhan, Advocate,
for respondents no. 2 and 3.**

AMOL RATTAN SINGH, J. (ORAL)

CM No. 6859-2022

The application is allowed subject to all just exceptions.

The replication filed by the petitioner to the written statement filed by respondents no. 2 and 3, along with Annexures P-43 to P-46, are ordered to be taken on record with the accompanying petition.

CWP No. 2624-2021 (O&M)

By this petition, the petitioner seeks issuance of a writ in the nature of '*mandamus*' directing respondent no. 2 to restore the originally allotted plot No. 330 of Sector 52, Gurugram, in the light of their own speaking order, dated 02.02.2021 (copy Annexure P-15 with the petition), and their own amended policy dated 15.11.2021 (copy Annexure P-20), as the possession of the alternatively allotted plot No. 751 of Sector 57, Gurugram, has not been

given till date even; and the originally allotted plot No. 330 of Section 52 has become litigation free (as contended).

He further seeks issuance of directions to the respondents to not include plot No. 330 of Sector 52, Gurugram, in the proposed/future e-auctions till the decision of the present writ petition and to reimburse him the consequential benefits arising because of delayed possession of the plot.

On 25.03.2022, the following order had been passed by this court:-

“Learned counsel for the petitioners refers to the order passed by the Chief Administrator, HSVP, Panchkula, dated 02.02.2021 (Annexure P/15), which reads as follows:-

“5. In view of the above, I hereby direct as under:

(a) The development works on the site of alternative plot No.751, Sector-57, Gurugram be completed within three months from today.

(b) After completion of development works, the possession be handed over to the petitioner within four months from today.

(c) The Estate officer-II, Gurugram shall allot/ restore the original plot No.330, Sector-52, Gurugram to the petitioner, after seeking approval from the HQ, in case compliance of (a) and (b) above is not done in given time.

However, in this case the personal responsibility for non-compliance of (a) & (b) shall rest upon the Estate Officer/ concerned XEN.”

Though learned counsel for the respondent-HSVP submits that even Plot No.751, Sector-57, Gurugram, had been offered to the petitioner, however, he has not taken possession thereof because of the trees standing thereon, for removal of which the

Horticulture Department of the Government has been written to.

It is to be observed by this Court that the order passed by the Chief Administrator of the HSVP (and not by this Court), does not state that (as per the directions given therein) that if Plot No.751, Sector-57, Gurugram, is burdened with encumbrances etc., it may be handed over at a period later than four months from the date of the order and it simply states that if the possession cannot be delivered within four months of 02.02.2021, the original plot allotted, i.e. Plot No.330, Sector-52, Gurugram, would be allotted to the petitioner.

The respondents have not shown us that they have ever challenged that order for the past more than one year. Consequently, learned counsel for respondent-HSVP would take instructions as to why Plot No.330, Sector-52, Gurugram, has not been allotted to the petitioner so far.

Counsel for the petitioner has submitted that as the said plot has now been put up in the lot of plots that are to be sold by e-auction on 29.03.2022, such auction, qua the same plot, be stayed.

We find the request to be reasonable and consequently, Plot No.330, Sector-52, Gurugram, shall not be e-auctioned in the draw to be held, till further orders.

Adjourned to 05.04.2022.”

Today, Mr. Chauhan, learned counsel for respondents-HSVP, submits that the alternative plot allotted to the petitioner, i.e. plot No. 751, Sector 57, Gurugram has in fact become completely encumbrance free with even the trees planted thereon having been uprooted and replanted at an appropriate place.

However, upon query to him with regard to the plot originally allotted to the petitioner vide the allotment letter dated 03.07.2003 (Annexure P-1), i.e. plot No. 330, Sector 52, Gurugram, allotted on a free hold basis, he submits that that plot has also become litigation free.

Looking at the fact that the petitioner is the original allottee of plot No. 330, Sector 52, Gurugram, as is now free of all encumbrances including litigation, even as per the respondents, we see no reason as to why the petitioner should be allotted a plot other than the one that was given to him originally, also because, as is contended before us, that the second plot was given to the petitioner without any choice being taken (on account of the plot in Sector 52 being under litigation at that time).

Upon specific query it is admitted that the petitioner is the original buyer, which also is seen to be so as per the allotment letter Annexure P-1, dated 03.07.2003.

Consequently, this petition is allowed and possession of plot No. 330 Sector 52, Gurugram, is ordered to be given to the petitioner within a period of one month from today, with learned counsel submitting that the entire consideration price in terms of the allotment letter (Annexure P-1) has already been paid by the petitioner, (the said tentative price shown to be Rs. 8,80,000/- as per the allotment letter, Annexure P-1).

Learned counsel for the petitioner submits that even the enhanced price as was demanded by the respondents subsequently, has been duly paid by the petitioner.

Obviously, if that factual position is not correct, the petitioner would be given a calculation of any dues from him for the aforesaid plot and he would make the payment accordingly within the aforesaid period of one month.

However, any harassment to the petitioner on the pretext of outstanding dues, if they are found to be actually due, shall invite very strict action against the persons found to be involved in such unnecessary harassment.

**(AMOL RATTAN SINGH)
JUDGE**

June 02, 2022
nitin

**(LALIT BATRA)
JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	No