

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

CWP-2955-2023(O&M)
Date of decision: 21.12.2023

Brij Mohan and another

... Petitioners

Versus

Haryana Sheari Vikas Pradhikaran and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. S.P. Arora, Advocate,
for the petitioners.
Mr. Ankur Mittal, Advocate, and
Ms. Kushaldeep Kaur and Mr. Siddharth Arora, Advocates,
for the respondents.

ARUN PALLI, J. (Oral)

On December 19, 2023, this Court had passed the following order:

“Being adjudged H-I, in an auction conducted by the respondents-authority, the petitioners were allotted a shop-cum-flat 128 Sector 19, Faridabad. It is not disputed that Rs.48,00,000/- were deposited by the petitioners in 2008. But since a police post already stood erected right in front of the allotted site, it was neither feasible to construct the site nor could it be used for the purpose it was allotted. So much so, even in an appeal preferred by the petitioners, as regards their concern/grievance, the Administrator, HSVP, exercising the powers of Chief Administrator, HSVP, vide order dated 14.01.2021, observed:-

“I have heard both the parties at the length and gone through the entire record of the case carefully. From the perusal of the record it is revealed that Shop cum Flat No.128, Sector-19, Faridabad was originally allotted to Sh. Brij Mohan vide respondent vide letter No.26675 dated 27.05.2008 for the area of 122.63 sq. mtrs. The said SCF was transferred to Sh. Brij Mohan S/o Sh. Ram Kishan

and smt. Neeraj W.o Birender Singh vide letter No.41609-10 dated 11.09.2008. Smt. Neeraj has submitted a request for surrender of above said SC (under protest) on 13.08.2015 to the reason that there is no space between the SCF No.128, Sector-19 Part-I, Faridabad and Police Post. As per the report of J.E./SDE(s), the Police post has been constructed in front of SCF No.128, 129, 130 & 131, Sector 19-1, Faridabad & there is a distance of 1.2 Mtrs on wall Police Post and S.C.Fs. & only front veranda can be made but no provision for footpath and parking in front of above said S.C.Fs. The proper footpath and parking is necessary requirement to run the business in shopping centre and there is no sufficient space of footpath provision as per standard drawing of above said shopping centre. This Police Post has been constructed without any permission or allotment by the competent authority and hampered the four Nos. S.C.F. No.128, 129, 130 & 131. Sector-19 Part-I, Faridabad Keeping in view the above said circumstances and as per HSVP policy relating to exchange of plots dated 18.02.2013, the present appeal is decided with the direction to the respondent to either consider the plea of applicants to get alternative site/plot or to refund the amount deposited by appellants towards cost of above said SCF with simple interest @9% per annum. The Estate Officer, HSVP, Faridabad is hereby directed to take up the matter of shifting/removal of above said Police Post, so that all the properties/plots can be taken up for auction or sale.

Announced on 14.01.2021. To be communicated.”

Apparently, two and a half years have gone by. And all that the petitioners are praying for is that either they be allotted an alternate site or the amount deposited by them be refunded with up to date interest.

In response, learned counsel for the respondents submits that the matter is already under active consideration of the respondents-authority. Therefore, he prays for a short accommodation to apprise the Court of the decision, if any, taken in this regard.

Adjourned to 21.12.2023.

To be taken up immediately after urgent matters.”

Learned counsel for the respondents, on instructions, submits that since the petitioners had deposited Rs.48,00,000/- as back as in the year 2008, and neither could they utilize the property, nor were they allotted the alternative site, and even the amount deposited by them was not refunded in all these years, the authorities have resolved to implement the order dated January 14, 2021, passed by the Administrator, HSVP, Faridabad. Particularly, for it has attained finality. He submits that the requisite amount along with interest in terms of the said order, shall be disbursed to the petitioners within next three working days. Further, he asserts that since the respondent-authorities have arrived at this decision in the peculiar facts and circumstances of the present case, the order dated January 14, 2021 (**ibid**), shall not be considered as precedent.

That being so, learned counsel for the petitioners submits that let this petition be disposed of in terms of the statement made by learned counsel for the respondents.

The petition is accordingly disposed of in terms of the statements made by learned counsel for the parties.

It is made clear that in case, the amount as indicated above, is not refunded to the petitioners, they shall be at liberty to move an application in this petition itself for restoration and for appropriate orders.

(Arun Palli)
Judge

(Vikram Aggarwal)
Judge

21.12.2023
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO