

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26415-2023

Date of decision: 24.11.2023

Durgesh Trivedi and another

...Petitioners

Versus

State of Haryana and others

....Respondents

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

**Present: Mr. Kartar Singh, Advocate,
for the petitioners.**

ARUN PALLI, J.(Oral)

The petitioners herein have prayed for the following substantive relief:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ, particularly in the nature of certiorari for quashing the impugned policy dated 15.11.2021 (Annexure P-9) being illegal, arbitrary, discriminatory and against the provision of the Constitution of India, especially against Article 300-A and against the Principal of Natural Justice, in the interest of justice.

AND

Issuance of an appropriate Writ particularly in the nature of mandamus directing the respondents to remove the illegal encroachment from the Plot No. 779 sector 2 Faridabad which is allotted to the petitioners and then hand-over the vacant possession of the said plot to the petitioners within a reasonable stipulated period as the respondent authorities have not deliver the possession of the Plot No. 779 Sector 2 Faridabad.

And/Or

For the issuance of any other suitable writ order or directions which this Hon'ble Court may deem fit and proper under the circumstances of the case.

It is further prayed that during the pendency of the aforesaid writ petition the respondent may kindly be restrained from allotting the aforesaid plot to any body else or re-auction the same or in the alternative one plot in the same area may kindly be kept reserve.”

Learned counsel for the petitioners submits that vide letter of allotment dated 23.04.2001, plot No. 779, Sector-2, Faridabad, measuring 1 marla, was allotted to one Sunil Kumar. After obtaining necessary permissions/sanctions, the petitioners purchased the said site/plot from the original allottee and the transfer letter/re-allotment letter was also issued in their favour in December, 2014. He further submits that even though the entire consideration stood deposited with the respondent authorities years ago, they have failed to deliver the actual physical possession of the site/plot. In reference to the order dated 25.02.2014, rendered by the Division Bench of this Court in **CWP-12165-2013 (Bishnu Kumar Vs. HUDA and Ors.)**, he submits that in an identical situation, this Court had required the authorities to identify an alternate site, free from all encumbrances, so that the claim of the petitioners therein could be considered. He asserts that a challenge is also raised to the policy dated 15.11.2021 (P-9), which postulates that even if, for any reason, the authorities are unable to deliver the actual physical possession of the allotted site/plot, claim for alternate site could only be considered qua the original allottee and not the subsequent purchaser, which is arbitrary and unsustainable. It is urged that none other than the Estate Officer himself, vide communications dated 25.03.2016 (P-6) and 03.06.2016 (P-7), addressed to the Chief Administrator, HUDA, Panchkula, had submitted that 41 plots, measuring 01 marla each in Sector-2, Faridabad, free from all encumbrances, were identified, and thus, permission was sought to allot the same to all those who were not delivered the possession of the allotted sites. Further, even the representation dated 02.11.2021 (P-4), the respondents were served with, has failed to evoke any response. He asserts that though a period of 21

years has gone by, yet the claim of the petitioners remains unaddressed and thus, being choiceless, they were constrained to approach this Court.

Served with the advance copy of the petition, Mr. Deepak Sabherwal, Advocate, for the respondent-HSVP, is present in Court. He submits that let this petition be disposed of, at this stage, to enable respondent No.2 to consider the concerns/grievances of the petitioners, as sought to be raised in the petition. And, appropriate orders, in accordance with law, shall be passed within two weeks from today. He submits that before any such orders are passed, petitioners shall also be afforded an opportunity of hearing.

Learned counsel for the petitioners is in agreement with the course suggested by the learned counsel for the respondent-HSVP, and submits that let this petition be disposed of, in terms of the statement made by him.

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

This Court is sanguine that the authorities shall look into the matter in the right earnest. And, appropriate orders, in accordance with law, shall be passed within the time indicated by the learned counsel for the respondents.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the grievances of the petitioners, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

24.11.2023
Ak Sharma

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