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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1035-2024
Date of decision:24.01.2024

SOM VIR
...Petitioner
Versus
STATE OF HARYANA AND OTHERS
...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Dhruv Walia (Legal Aid Counsel)
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner has accessed this Court to completely enforce, the declaration of his eligibility, as made in Annexure P-10.
2. The making of Annexure P-10, was a sequel to the present petitioner, earlier accessing this Court through his instituting CWP-25420-2016. On the said writ petition, this Court on 08.12.2016, had passed the hereinafter extracted directions.

“The petitioners pray for allotment of plots under the policy dated 01.12.2008 and in this regard they have made representations which are on record as Annexures P-4 and P-5.

After hearing the learned counsel for the petitioners and noticing the grievance as expressed in the petition, we are of the considered view that this petition needs to be disposed of at this stage with a direction to the respondents to consider and decide the claim of the petitioners as contained in the

representations (Annexures P-4 and P-5) by passing a speaking order as expeditiously as possible.

Ordered accordingly.”

3. As stated (supra), the said directions have been complied with, thus through the making of Annexure P-10, but despite Annexure P-10 declaring that the present petitioner is eligible for the relevant allotment, and, despite the fact that Annexure P-10 has been made in the year 2020, besides though in terms of Annexure P-10, as revealed by Annexure P-11, an order attesting mutation, on the basis of gift deed Vasika No.3855/1, rather became attested, on 22.09.2021.

4. Nonetheless, even since the year 2021 uptil now, no encumbrance free delivery of possession of the relevant plot, has been made to the present petitioner, thus for therebys, his making an apt utilization of the plot, as became allotted to him.

5. The failure on the part of the respondent concerned, to ensure the delivery of encumbrance free possession of the relevant plot, to the present petitioner, through theirs since the year 2021 uptil now drawing proceedings for seeking evictions thereovers of unauthorized occupants or unauthorized possessors, but bespeaks of the gross apathy, and, indolence on the part of the respondent concerned, to facilitate the completest implementation of Annexure P-10, which would but happen, only when an encumbrance free delivery of possession of the allotted plot, became made to the present petitioner. The said delay would obviously beget escalation in cost of construction, and, that too, on the ex facie lethargy of the respondent concerned.

6. It is also not today stated before this Court, that whether as such, a petition for eviction under the relevant statutory provisions, has been

filed against the encroachers, on the apposite plot, thus before the learned Assistant Collector concerned. Therefore, if no such petition for eviction has been filed, the said be ensured to be filed, but within a fortnight from today, and, on the institution of the said petition, the same shall, in terms of the validly made demarcation by an empowered Revenue Officer concerned, thus shall become decided within 3 months of its preferment, but after hearing all affected persons concerned.

7. What pains the judicial conscience of this Court, is that, prima facie the respondent concerned, has not only committed negligence in allotting an unuseable plot, to the petitioner, through its remaining apathetic to the dire necessity of making an encumbrance free allotment thereof, to the present petitioner, who otherwise, was eligible in the year 2020, but has also aggravated the said negligence, through despite Annexure P-11, being made in terms of Annexure P-10, rather the plot allotted to the petitioner, being not ensured to be free from encumbrance, whereby for lack of encumbrance free possession of the allotted plot, becoming delivered to the present petitioner, thus, obviable escalation in construction costs, but obviously has happened.

8. Apart from lack of apt discovery of the relevant plot, being encumbrance free, the existence of any encroachments, on the allotted plot, but were also ensured to be removed therefrom, thus prior to the making of Annexure P-11, whereupon, the present petitioner would not have become driven, to repeatedly access this Court. Naturally he has been led to access this Court, but for wants of delivery to him, thus of vacant encumbrance free possession of the relevant allotted plot. Prompt non delivery of possession whereof, become sparked from no lawful steps being taken by

the respondent concerned, thus before the making of Annexure P-11, rather for removing the unauthorized occupations or unauthorized possessions thereovers.

9. The above indolence and lethargy is deprecated in the strongest terms by this Court. In consequence, the instant petition is **allowed**. The respondent concerned, is directed to, if not already instituted, to forthwith institute, through BDPO concerned, a petition under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961, for seeking therebys the eviction of the encroachers, upon, the allotted plot thus, before the learned Assistant Collector concerned, who as stated (supra), shall pass lawful orders thereon, within 3 months from today.

10. In case such a petition is subjudice, thereupon the said petition be ensured to be terminated, through a lawful order being made thereons, but within 3 months from today.

7. Furthermore, since there is gross apathy, negligence and indolence on the part of the respondent concerned, to mete the promptest besides completest compliance to Annexure P-10, whereupon there is but naturally an escalation in cost of construction, thereupon this Court awards to the petitioner costs, quantified in a sum of Rs.50,000/-, and, the said costs be shall be personally borne by the derelicting executing officer concerned, vis-a-vis, Annexure P-10.

(SURESHWAR THAKUR)
JUDGE

24.01.2024
Ithlesh

(LALIT BATRA)
JUDGE