

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14802-2017
Reserved on: 06.02.2024
Pronounced on: 21.03.2024

Mahabir Singh MalikPetitioner

Versus

State of Haryana and OthersRespondents

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

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Ms. Kushaldeep Kaur, Advocate.

Mr. Anil Chawla, Advocate, for respondents No.2 and 3.

VIKRAM AGGARWAL, J.

1. By way of the instant writ petition, the petitioner assails the order dated 08.05.2017 (Annexure P-9) vide which it was held that the petitioner was entitled to a plot measuring 50 square yards, being an oustee (as against the claim of the petitioner for a plot measuring 134 square yards). And that it would be open for him to apply for the same whenever an advertisement in this regard was issued.

2. The petitioner claims to be the owner of land measuring 134 square yards situated in village Ghari Brahamana, Sonapat (hereinafter referred to as ‘the plot’) (67 square yards of land having been purchased vide sale deed dated 20.10.1986 and 67 square yards having been acquired by way of an agreement dated 07.01.1993.

2.1 His land was acquired for construction of a road in Sector 23, HUDA, Sonapat. Notification under Section 4 of the Land Acquisition Act, 1894 (for short

‘the Act’) was issued on 16.12.1988. Declaration under Section 6 of the Act was issued on 13.12.1989 and award was passed on 28.03.1990.

2.2 The petitioner claims that the house of the petitioner, which had been constructed over the plot was damaged/demolished in March 2003. A representation dated 22.07.2008 (Annexure P-1) was submitted. When no action was taken, another representation dated 29.12.2014 (Annexure P-4) was submitted. A civil suit was also filed by the petitioner which was decreed on 12.07.2016 (Annexure P-6) in which the petitioner was held to be entitled to all benefits on account of compulsory acquisition of his land.

2.3 When the representations of the petitioner for the allotment of a plot, being an oustee, did not yield any result, he preferred **CWP-22400-2016** which was disposed of vide order dated 27.10.2016 (Annexure P-7) with a direction to the respondents to take a final call on the said representations.

2.4 In pursuance of the aforesaid order, another representation dated 25.11.2016 (Annexure P-8) was submitted by the petitioner. Vide order dated 08.05.2017 (Annexure P-9), the petitioner was held entitled to 50 square yards of land *in lieu* of his acquired land holding further that he would be entitled to apply for the same as and when an advertisement was issued.

2.5 It is the case of the petitioner that the aforesaid order is not sustainable and that the petitioner is entitled to be allotted a plot measuring 134 square yards from the oustee’s quota.

3. The writ petition has been opposed by the respondents. Strangely, there are three written statements on record by respondents No.2 and 3, two of which are dated 16.08.2018 and one is dated 27.04.2018 though contents of all three written statements are *verbatim*. Be that as it may, the stand taken in the written statements is that as per the Oustee’s Policy dated 18.03.1992, the petitioner is entitled to a plot measuring 50 square yards and that in terms of the

subsequent policy dated 11.08.2016 which gives an opportunity to the oustees, the petitioner would be entitled to apply for the allotment of a plot as and when an advertisement would be issued.

4. Learned counsel for the parties were heard.

5. It was submitted by learned counsel for the petitioner that the petitioner would be entitled to a plot measuring 134 square yards and not a plot measuring 50 square yards as has been erroneously held by the respondents. Learned counsel submitted that the petitioner was the owner of 134 square yards of land only of which he has been deprived by way of compulsory acquisition making him entitled to the allotment of a plot measuring 134 square yards.

6. Per contra, learned counsel for the respondents relied upon the policies dated 18.03.1992 and 11.08.2016 and it was submitted that in terms of the ratio laid down by the Full Bench of this Court in the case of '***Rajiv Manchanda and Others Versus Haryana Urban Development Authority and Another***', 2018 (4) R.C.R. (Civil) 508, the petitioner would be entitled to apply for the allotment of a plot measuring 50 square yards as and when an advertisement *qua* Sector 23, Sonapat is issued.

7. We have considered the submissions made by learned counsel for the parties.

8. The petitioner claims to be the owner of 134 square yards of land. There is no dispute with regard to land measuring 67 square yards as he purchased the same vide registered sale deed dated 20.10.1986. However, the other 67 square yards of land are stated to have been purchased by him by way of an agreement to sell. The agreement to sell would not confer any title upon the petitioner. Be that as it may, the respondents have taken the petitioner to be the owner of 134 square yards of land and the issue of ownership is not in dispute in the present petition. It is, therefore, clear that the petitioner is an oustee. Now, it has to be seen as to

under which policy, he has to be allotted a plot. Reliance in the written statement as also in the impugned order has been placed upon the policy dated 18.03.1992 (Annexure R-2) as per which, where an oustee was the owner of land measuring less than 500 square yards, he would be offered a plot measuring 50 square yards. The petitioner would, therefore, clearly fall under this category because even as per the case of the petitioner, he was the owner of land measuring 134 square yards. He, however, did not apply for the allotment of a plot in the year 2010 when applications from oustees of Sector 23, Sonapat were invited. This procedure has to be followed in terms of the ratio laid down by a Full Bench of this Court in the case of '*Rajiv Manchanda and Others Versus Haryana Urban Development Authority and Another*' (*supra*). It has been held in the impugned order that in terms of the policy dated 11.08.2016, the petitioner would be entitled to apply for a plot whenever an advertisement for allotment of plots to oustees of Sector 23, Sonapat is issued. We do not find any illegality in the said order because the impugned order is in conformity with the policies issued by the respondents from time to time and also follows the ratio laid down by a Full Bench of this Court in the case of '*Rajiv Manchanda and Others Versus Haryana Urban Development Authority and Another*' (*supra*).

In view of the aforementioned facts and circumstances, we do not find any illegality in the impugned order and the writ petition is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Reserved on: 06.02.2024
Pronounced on: 21.03.2024
Prince Chawla

Whether speaking/reasoned :	Yes/No.
Whether reportable :	Yes/No.