



CWP-16053-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16053-2024

Date of Decision : 16.07.2024

Ramesh Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

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

Present : Mr. J.K.Goel and Mr. Shvetanshu Goel, Advocates
for the petitioner.

Mr. Arvind Seth, Advocate
for respondents No.2 and 3.

VIKRAM AGGARWAL, J

1. The petitioner prays for the issuance of a *certiorari* for quashing of allotment letter dated 15.05.2007 (Annexure P-10) vide which residential plot No.531, Sector 24, Panipat was allotted in favour of the petitioner and respondent No.4 jointly. The petitioner also challenges the allotment letter dated 31.08.2022 (Annexure P-16) vide which the aforesaid plot has now been allotted to respondent No.5. The petitioner further prays for the issuance of a mandamus commanding the respondents-Authorities to allot the said plot exclusively in the name of the petitioner.

2. The case set out by the petitioner is that he was owner in possession of land measuring 36 kanals 13 marlas (fully described in the writ petition), situated in Village Malik Ugrakheri, District Panipat as per the jamabandi for the year 1992-93 (**Annexure P-1**). Out of the said land, land



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measuring 09 kanals 06 marlas was proposed to be acquired for development of Sector 24, Panipat. After the issuance of notification under Section 4 and declaration under Section 6 of the Land Acquisition Act, 1854, Award No.7 was passed on 28.02.1996.

3. The petition then refers to the oustees policy framed from time to time. It has been averred that as per the policy in force at the relevant time, the petitioner was entitled for a one kanal plot and accordingly he had submitted an application alongwith a sum of Rs.2,15,460/- on 07.03.2006. A draw of lots was held on 04.12.2006 and plot No.531, Sector 24, Panipat (for short 'the disputed plot') was allotted jointly to the petitioner and respondent No.4. A representation dated 06.03.2007 (Annexure P-9) was submitted stating that the petitioner was entitled to an individual plot. However, allotment letter (Annexure P-10) was issued on 15.05.2007. Subsequent representations dated 07.04.2011 and 07.07.2011 (Annexures P-11 and P-12 respectively) were also submitted by the petitioner requesting for the allotment of a plot individually to the petitioner.

4. It has been averred that the petitioner was owner of another land measuring 12 kanals 04 marlas alongwith respondent No.4 as per jamabandi (**Annexure P-13**) and that respondent No.4 had also applied for a plot under the oustees scheme. It has been averred that the petitioner, apart from being entitled to a plot alongwith respondent No.4 was individually entitled to a plot on account of his land measuring 09 kanals 06 marlas having been acquired.

5. Since the respondents-Authorities did not take any action, the petitioner filed CWP No.12460 of 2019 which was ultimately withdrawn

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with liberty to file a fresh petition vide order dated 12.09.2023 as in that case, respondent No.4 had not been impleaded as a party. Subsequently, CWP No.28916 of 2023 was filed which was also dismissed as withdrawn with liberty to file a fresh petition with better particulars vide order dated 21.12.2023, leading to the filing of the present writ petition.

6. It has been averred that now the disputed plot has been allotted to respondent No.5 vide letter of allotment dated 31.08.2022 and that a representation in this regard had also been submitted on 23.08.2022 i.e. prior to the issuance of the allotment letter.

7. We have heard learned counsel for the petitioner and have perused the paper book.

8. Learned counsel for the petitioner has submitted that the petitioner is entitled to a plot individually on account of acquisition of his land measuring 09 kanals 06 marlas. Reference has been made to the documents annexed with the writ petition and it has been urged that the action of the respondents-Authorities in allotting the disputed plot firstly in the joint name of the petitioner and respondent No.4 and subsequently to respondent No.5 is illegal and arbitrary and, therefore, deserves to be set aside.

9. We have considered the submissions made by learned counsel for the petitioner and find the same to be devoid of merit. The award pursuant to the acquisition of land was passed as far back as on 28.02.1996. The application for allotment of a plot was moved by the petitioner on 07.03.2006. The disputed plot was allotted to the petitioner and respondent No.4 vide allotment letter dated 15.05.2007. The letter of allotment



contained Clauses 4, 5 and 6;

“4. In case you refuse to accept this allotment you shall communicate your refusal by a registered letter within 30 days from the date of allotment letter failing which this allotment shall stand cancelled and the earnest money deposited by you shall be forfeited to the authority and you shall have no claim for damages.

5. In case you accept this allotment please send your acceptance by registered post along with an amount of Rs.18373/- within 30 days from the date of issue of the allotment letter which together with an amount Rs.3,54,941/- paid by you along with your application from as earnest money, will constitute 25 percent of the total tentative price.

6. The balance amount i.e. Rs.16,15,950/- of the above tentative price of the plot building can be paid in lump sum without interest within 60 days from the issue of this allotment letter six/annual installments. The first installment will fall due after the expiry of one year of the date issue of this letter. Each installment would be recoverable together with interest on the balance price at 11% interest of the remain amount. The interest shall however, accure from the date of offer of possession.”

10. On a pointed query raised by the Court, learned counsel for the petitioner concedes that the petitioner neither sent his acceptance to the allotment nor did he send any refusal nor any amount was paid. Still further, a perusal of the paper book shows that after the allotment having been made on 15.05.2007, the petitioner represented to the authorities in 2011 and thereafter again went into a slumber. He has now again woken up after the



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allotment of the plot in an auction to respondent No.5 vide allotment letter dated 31.08.2022.

11. The petitioner knocked the doors of this Court earlier also in 2019 by way of CWP No.12460 of 2019 which had to be withdrawn by him for he had not impleaded respondent No.4 as a party. The order dated 12.09.2023 states:

“In the the present writ petition filed under Article 226/227 of the Constitution of India the petitioner is seeking directions against the respondents to consider the claim under the oustees quota for allotment of plot.

2. It is the case of the petitioner that allotment has been done in favour of the petitioner as a oustee alongwith one Chottan, whose name has also been mentioned in the allotment letter dated 15.05.2007. Apparently, Chottan has not been even made a party nor any relief has been prayed for against him, though averments have been qua him that his name be removed from the allotment.

3. We are of the considered opinion that in the absence of said person being impleaded, the present writ petition is not maintainable.

4. Faced with this situation, counsel for the petitioner submits that he may be permitted to withdraw the present writ petition with liberty to file a fresh one, in case the cause of action still subsists.

5. Ordered accordingly.

12. The petitioner then filed CWP No.28916 of 2023 and again did not implead respondent No.4 as a party. This writ petition was also withdrawn on 21.12.20123 with liberty to file a fresh petition.

“Even an earlier petition filed by the petitioner (CWP-12460-



2019), was dismissed as withdrawn on September 12, 2023:

In the the present writ petition filed under Article 226/227 of the Constitution of India the petitioner is seeking directions against the respondents to consider the claim under the oustees quota for allotment of plot.

2. *It is the case of the petitioner that allotment has been done in favour of the petitioner as a oustee alongwith one Chottan, whose name has also been mentioned in the allotment letter dated 15.05.2007. Apparently, Chottan has not been even made a party nor any relief has been prayed for against him, though averments have been qua him that his name be removed from the allotment.*

3. *We are of the considered opinion that in the absence of said person being impleaded, the present writ petition is not maintainable.*

4. *Faced with this situation, counsel for the petitioner submits that he may be permitted to withdraw the present writ petition with liberty to file a fresh one, in case the cause of action still subsists.*

5. *Ordered accordingly.*

Ex facie, even the petition at hand is centered on the same cause of action, but without impleading Chottan as party-respondent, whose name is recorded in the letter of allotment dated May 15, 2007.

Faced with this, learned counsel for the petitioner submits that he be permitted to withdraw the petition with liberty to file afresh with better particulars.

Dismissed as withdrawn, with the liberty prayed for.”

13. Notably, when CWP No.28916 of 2023 was filed, the allotment of the disputed plot had already been made to respondent No.5. However, on a

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pointed query put to learned counsel for the petitioner, he concedes that in CWP No.28916 of 2023, no reference was made as regards the allotment of the disputed plot to respondent No.5. It is, therefore, clear that the petitioner is abusing the process of law by repeatedly filing writ petitions without impleading the concerned person as a party and in all probability with a view to secure some favourable order without bringing the true facts to the notice of the Court.

14. There is another aspect of the matter. As has been already noticed, the allotment of the disputed plot in favour of the petitioner and respondent No.4 was made on 15.05.2007 and the representations in this regard were made in 2011. After 2011, the first writ petition was filed in 2019. Thereafter, the disputed plot was allotted to respondent No.5 on 31.08.2022 and another writ petition was filed in 2023 and now the third writ petition has been filed nearly two years after the allotment of the disputed plot to respondent No.5. This Court has, therefore, no hesitation in holding that the petitioner is raking up stale claims and, therefore, does not deserve any indulgence from this Court.

In view of the aforementioned facts and circumstances, we do not find any merit in the present writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

16.07.2024

mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No