

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.29083 of 2017
Reserved on: 01.02.2024
Pronounced on:13.03.2024

Pushp Lata

....Petitioner

Versus

State of Haryana and others

....Respondent

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

Present: Mr. Rakesh Nagpal, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Deepak Bhardwaj, D.A.G., Haryana.

Mr. Deepak Sabherwal, Advocate
for respondents No.2 and 3.

VIKRAM AGGARWAL J.

The prayer in the instant writ petition is for the issuance of a writ of *certiorari* quashing the order dated 04.08.2017 (Annexure P-5) passed by respondent No.2 vide which the appeal filed by respondent No.3 against the order dated 29.01.2007 (Annexure P-3) was accepted and allotment of a plot to the husband of the petitioner was declared as null and void. The second prayer is to issue a *mandamus* commanding the respondents to issue allotment letter *qua* plot No.364, Sector 20, Kaithal measuring 10 marlas in favour of the petitioner.

2. The husband of the petitioner was owner in possession of land measuring 4 kanal7 marlas situated in the Revenue Estate of Patti

Kaisth, Kaithal. The said land was acquired for a public purpose namely development of Sector 20, Kaithal. The case of the petitioner is that her husband, who unfortunately expired on 21.09.2010, was entitled for allotment of a plot under the Oustees quota in view of the instructions/policies issued from time to time and more specifically the policies issued on 18.03.1992 and 12.03.1993 (Annexures P-1 and P-2).

(i) The husband of the petitioner is stated to have applied for a plot measuring 10 marlas vide application dated 01.10.1992 in terms of the policy dated 18.03.1992 but no action was taken.

(ii) An Oustees Lok Adalat was held on 22.11.2006 in which the husband of the petitioner was found eligible for allotment of a plot and accordingly, vide decision dated 29.10.2007 (Annexure P-3) directions were issued for allotment of a 250 square yards plot in terms of the policy dated 18.03.1992.

(iii) This decision of the Oustees Lok Adalat was challenged in appeal by respondent No.3. During the pendency of the appeal, no allotment of the plot, in terms of the directions issued by the Oustees Lok Adalat was made.

(iv) Since the appeal was not being decided, a request is stated to have been made for decision of the appeal and ultimately a legal notice dated 10.06.2016 is also stated to have been served (though a copy of the same has not been annexed).

(v) The petitioner filed CWP No.18468 of 2016 which was disposed of on 18.10.2016 (Annexure P-4) with a direction to respondent No.2 to decide the appeal filed by respondent No.3 as also the legal

notice dated 10.06.2016 expeditiously preferably within a period of 03 months.

(vi) Ultimately, vide order dated 04.08.2017 (Annexure P-5), the appeal was accepted and the order dated 29.01.2007 was set aside leading to the filing of the present writ petition.

(vii) The writ petition has been opposed by the respondents. The basic stand taken in the written statement is that the husband of the petitioner had submitted an application for the allotment of a plot on 01.10.1992 without any earnest money and that under the circumstances, no allotment could have been made to him. Reliance has been placed upon the Brochure (Annexure R-1) which clearly stipulates that applications for the allotment of a plot are to be made on the form prescribed along with earnest money.

3. The order passed by the Appellate Authority on 04.08.2017 has been defended in the written statement stating that the Oustees Lok Adalat had no jurisdiction to issue a direction for the allotment of a plot.

4. We have heard learned counsel for the parties.

5. Learned counsel for the petitioner submitted that the well reasoned decision of the Oustees Lok Adalat was set aside by the Appellate Authority on flimsy grounds and that nobody could dispute the entitlement of the husband of the petitioner for the allotment of a plot in view of the own policy of the respondents. Learned counsel submitted that the petitioner who is a widow has been running from pillar to post for the allotment of a plot in lieu of the land acquired by the respondents but to no avail.

6. Learned counsel representing the respondents has however defended the order passed by the Appellate Authority stating that adequate and valid reasons were given by the Appellate Authority for setting aside the order passed by the Oustees Lok Adalat.

7. We have considered the submissions made by learned counsel for the parties. The factum of 100% land of the husband of the petitioner having been acquired is not disputed. However, as to whether the Zonal Screening Committee could have held him to be entitled for the allotment of a plot measuring 250 square yards is to be seen. Further, whether the Oustees Lok Adalat could have issued a direction to allot a plot measuring 250 square yards to the husband of the petitioner at current rates is also to be seen. The Appellate Authority set aside the finding of the Zonal Screening Committee as also that of the Oustees Lok Adalat for three reasons.

(i) It was firstly held that the application submitted by the husband of the petitioner was submitted without earnest money despite the fact that it was specifically provided in the Brochure (Annexure R-1) that the applications for allotment of a plot were to be accompanied by earnest money which, for a 10 marlas plot was Rs.16,500/-. There was a specific condition in the Brochure that only such applications would be deemed to be valid which would be accompanied by the specified earnest money. The fact that the application submitted by the husband of the petitioner was not accompanied by any earnest money has not been disputed either during the course of arguments or by way of any replication. Under the circumstances, no fault can be found with the decision of the Appellate Authority. Reliance was also rightly placed by

the Appellate Authority upon the judgment in the case of **HUDA and others versus Sandeep and others, SLP (Civil) No(s). 27256-27264 of 2012, decided on 06.03.2014**, wherein it had been held that the oustees would be entitled to apply for the allotment of a plot along with earnest money in pursuance of public advertisement issued for the purpose. No fault can, therefore, be found with the said finding of the Appellate Authority.

(ii) The second ground on which the husband of the petitioner was non-suited was that the Oustees Lok Adalat could not have accepted the claim on an updated price when the application itself was not valid. The Appellate Authority held that the Oustees Lok Adalat had exceeded its jurisdiction because the terms and conditions of allotment had to be prescribed by the Chief Administrator Huda. No fault can be found with this finding also because, in the considered opinion of this Court, the Oustees Lok Adalat could at best have decided about the eligibility of an oustee but could not have held that a plot be allotted to the oustee at current rates. The Lok Adalat, therefore, clearly exceeded its jurisdiction.

(iii) The third issue which was taken up by the Appellate Authority was that in the presence of co-sharers, the husband of the petitioner could not have been held entitled to a plot individually. This finding can also not be found fault with because allotment of a plot to an oustee would be in accordance with the policy only which was applicable at the relevant time. In fact, the Appellate Authority held that the husband of the petitioner would be at liberty to apply as per the advertisement

which may be issued in future meaning thereby that the doors were not closed permanently for the petitioner.

In view of the aforementioned facts and circumstances, we do not find any illegality in the order dated 04.08.2017 (Annexure P-5) and consequently the writ petition is also found to be devoid of merit. Accordingly, the same is dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 13.03.2024
Rekha

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