

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 09.01.2024

1. C.W.P. No. 29534-2017 (O&M)

Suman Anand **Petitioner**
Vs.

Haryana Urban Development Authority, Faridabad **Respondent**

2. C.W.P. No. 26523 of 2017 (O&M)

Ravinder and Others **Petitioners**
Vs.

State of Haryana and others **Respondents**

3. C.W.P. No. 29609 of 2017 (O&M)

Urmila Arya and Anr. **Petitioners**
Vs.

Haryana Urban Development Authority, Fridabad **Respondents**

4. C.W.P. No.29556 of 2017 (O&M)

Sanjay Kumar **Petitioner**
Vs.

Haryana Urban Development Authority, Fridabad **Respondents**

5. C.W.P. No. 29572 of 2017 (O&M)

Dr. Cauvery Gupta **Petitioner**
Vs.

Haryana Urban Development Authority, Faridabad **Respondents**

6. C.W.P. No. 29545 of 2017 (O&M)

Attar Singh Rajput and Anr. **Petitioners**
Vs.

Haryana Urban Development Authority, Fridabad **Respondents**

7. C.W.P. No. 29561 of 2017 (O&M)

Sushma Raghav Petitioner

Vs.

Haryana Urban Development Authority, Fridabad Respondent

8. C.W.P. No. 29579 of 2017 (O&M)

Sunil Prabha Narang Petitioner

Vs.

Haryana Urban Development Authority, Fridabad Respondent

9. C.W.P. No. 27678 of 2018 (O&M)

Sulekha Petitioner

Vs.

Haryana Sehri Vikas Pradhikaran Respondent

10. C.W.P. No. 19449 of 2018 (O&M)

N.D. Nagpal and Ors. Petitioners

Vs.

State of Haryana and others Respondents

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

Present: Mr. Adarsh Jain, Advocate,
for the petitioner in CWP-29534, 29609,
29556, 29572, 29545, 29561 and 29579 of 2017.
Mr. Raj Kumar Gupta, Advocate
for the petitioner in CWP-26523 of 2017 and 19449 of 2018.
Mr. Saurabh Dalal, Advocate
for the petitioner in CWP-27678 of 2018.
Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate and
Mr. Anil Chawla, Advocate
for the respondent-HSVP in CWP Nos. 25934, 29572, 29545, 29609
29556, 29561, 29579 of 2017 and No.27678 of 2018
Mr. Deepak Balyan, Advocate with
Mr. Vicky Chauhan, Advocate
for the respondent-HSVP in CWP-26523-2017, 19449 of 2018.
Mr. Ankur Mittal, Addl. A.G. Haryana with
Mr. Karan Jindal, Asstt. A.G. Haryana.

ARUN PALLI, J (Oral)

For, the issue involved in this bunch of petitions is identical, these are being disposed of vide a common order and judgment. However, for the facility of reference, the facts are being derived from CWP No. 29534 of 2017.

The petitioner (Suman Anand), has prayed for a certiorari, to quash the communication dated 31.08.2017 (P-1), whereby a demand for Rs.3458/- (per square meter), towards additional cost of the allotted site/plot, owing to enhancement on compensation, of the acquired land, raised by the authorities, being arbitrary and unsustainable.

The petition is pending since December, 2017 and in the meanwhile numerous affidavits/counter affidavits have been filed by the respondents. It is not in dispute either that during the pendency of these petitions, the respondent authorities had floated a “One Time Settlement” scheme, to settle all pending dues. As a result, some of the petitioners before us availed the benefits thereunder. And, contrary to Rs.3458/- (per square meter) the demand/liability was settled @ Rs.189.64/- (per square meter). Whereafter, for the reasons as set out in the status report, filed by way of an affidavit of the Estate Officer, HSVP, Faridabad, dated 20.12.2023, another exercise was carried out to re-examine every possible factor and the calculations, on the basis of which a demand of Rs.3458/- per square meter was raised. Whereupon, it was concluded that figure of Rs.3458/- per square meter was erroneously arrived at. And, in fact Rs.587.62/- per square meter (general category) were required to be charged from the allottees. The relevant part of the aforesaid affidavit reads as thus:-

“7. That it is respectfully submitted that the calculations made based upon which the demand notices had been sent to the allottees, including the petitioners at the rate of Rs.3458/- per square meter were examined. The minute examination of the same revealed that the calculations made for determining the additional cost to be recovered from the allottees was erroneous as

firstly, the sector wise effect of enhancement was not calculated and rather the total cost of enhancement for the total acquired land vide the award no.6 and 7 was taken into consideration for calculating the enhanced cost per acre, whereas, the acquired area in Sector 56, Faridabad was 29.59 acres (23.54 acre was acquired vide award no.6 dated 03.08.2006 and 6.05 acres was acquired vide award no.7 dated 03.08.2006), therefore, the total liability of enhanced compensation was to be calculated for the area of 29.59 acres falling in Sector 56, Faridabad which was to be further loaded on the saleable area of Sector 56, Faridabad which is 134.26 acres.

8. Secondly, the total cost arrived was divided solely with the saleable area of Sector 56A, Faridabad i.e. 88.08 acres and the saleable area of Sector 56, Faridabad i.e. 134.26 acres was not considered at all. As a result of same the figure arrived at i.e. Rs.3458/- per sq. mtr. Is being annexed as Annexure R-1 for the kind consideration of this Hon'ble Court.
9. That it is submitted that the impugned notices in the year 2017 were issued for enhancement on account of the wrong calculations of Rs.3458/- per sq. mtr. As submitted above.

B. Calculations made now as on the date of issuance of the demand notices by taking into consideration the correct acquired area utilized for Sector 56, Faridabad and its saleable area, on which the enhancement made has been loaded and thus, reaching to the figure of Rs.587.62 per sq. mtr. (General category)."

Accordingly, Mr. Ankur Mittal, Advocate and Mr. Deepak Balyan, Advocate for respondent-HSVP submit that, to all those allottees,

who had deposited the additional costs @ Rs.3458/- per square meter, the balance amount shall be refunded along with interest. Whereas, those allottees who availed the benefit under the OTS scheme and had settled their liability @ Rs.189.64/- per square meter, would have to be issued a fresh demand @ Rs.587.62/- per square meter. Though they would be awarded all the benefits envisaged in the scheme and which they had already availed/were entitled to. In so far as the allottees who had neither deposited any amount @ Rs.3458/- per square meter, nor availed the benefit under the OTS scheme, would be issued a demand notice @ Rs.587.62/- per square meter. And, shall be charged interest for non payment of requisite amount from the due date.

Accordingly, in the wake of the developments that have come into being during the pendency of these petitions, learned counsel for the respondent-HSVP submit that the initial demand @ Rs.3458/- per square meter, and the impugned communication dated 31.08.2017 (P-1), in any case, is erroneous and be considered to have been withdrawn. Rather, it is submitted that those petitions, owing to the changed situation, are rendered infructuous. It is urged that in all those cases where the allottees are required to be served with a revised demand @ Rs.587.62/- (per square meter), they shall be served with a fresh notice and a due opportunity would be afforded to submit response, and also a hearing by the competent authority before any fresh orders are passed.

In the wake of the position sketched out above, learned counsel for petitioners, without prejudice to rights/interests of the petitioners and also their respective pleas/claims set out before this Court, are agreeable to the course suggested by learned counsel for the respondent-HSVP. And, submit that let these petitions be disposed of in terms of their statement. However, it is urged, for, the dispute between the parties has been pending for a considerable time, it would also be expedient if the authorities are directed to initiate and conclude the entire process within a specified time.

To this, learned counsel for the respondent-HSVP submit that petitioners/allottees would be at liberty to raise all possible objections/issues in their response to the fresh demand and/or notices that shall be issued and

may also claim any relief that is admissible in law. They submit that necessary exercise in this regard shall be initiated within a period of four weeks from today, and the entire process would be concluded within the next two months thereafter.

These petitions are accordingly disposed of in terms of the statement made by learned counsel for the parties.

This Court is sanguine that the authorities would consider/examine the matter, in the right earnest and pass appropriate orders, assigning reasons in support thereof, within the time indicated by 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 earlier, the competent authority shall pass necessary orders, strictly in accordance with law.

Pending applications, if any, also stand disposed of.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

09.01.2024
deepak

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