



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

221

CWP-4483-2019

Date of Decision : **January 20, 2025**

ROPAR IMPROVEMENT TRUST AND ANR

.....Petitioners

VERSUS

PERMANENT LOK ADALAT PUS RUPNAGAR AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Neeraj Sharma, Advocate
for the petitioners.

Mr. Jaideep Verma, Advocate
for respondent No.2.

KULDEEP TIWARI, J.

1. The Ropar Improvement Trust has filed the instant petition under Articles 226/227 of the Constitution of India challenging the award dated 26.11.2018 (Annexure P-8), passed by the Permanent Lok Adalat (PUS), Rupnagar, where through, the application preferred by respondent No.2 was allowed and the Improvement Trust was directed to pay Rs.1,70,213/- along with interest @ 12% per annum w.e.f. 28.4.2015 till realization of the said amount. The respondent No.2 was also held entitled to recover Rs.15,000/-, as compensation, for the harassment caused to him and Rs.5,000/-, as litigation expenses, along with interest @12% per annum from the date of institution of the application till realization of the said amount.

2. Succinctly, stated the facts are that the petitioners issued an advertisement on 4.7.1991 for allotment of residential plots in Bela Road Scheme No.1, Dashmesh Nagar, Rupnagar wherethrough, respondent No.2 submitted his application on 8.8.1991, and he was allotted Plot No.397 measuring 250 sq. yards in pursuance of the application (supra), in the aforesaid scheme. Thereupon, respectively No.2, entered into an agreement of sale with the petitioner/Trust on 19.12.1991. On 11.7.1994, respondent No.2, submitted an application for the construction of building in the plot and the sanction was granted by the petitioner/Trust vide letter dated 15.11.1994. Respondent No.2 in the month of August, 2014, submitted another site-plan for raising further construction upon the allotted plot. The petitioner/Trust vide letter No.667 dated 26.9.2014, informed the respondent No.2, that an amount of Rs.1,74,080/-, was due towards non-construction charges pertaining to the years 1996, 1997 and 1998, and the same may be deposited prior to the sanction of the site-plan. Thereafter, respondent No.2 deposited an amount of Rs.1,34,630/- on 28.4.1995 under protest. Respondent No.2 had earlier deposited an amount of Rs.900/- as non-construction fee for the year 1995. In the meanwhile, on account of enhancement of the compensation of the acquired land with regard to Bela Road Scheme, wherein, respondent No.2 was allotted plot, the petitioner/Trust, vide its resolution No.141 dated 23.4.2001, raised demand for enhanced amount from all the allottees of the scheme, and accordingly, a notice was issued by the petitioner/Trust on 15.11.2010, and sought an amount of Rs.20,000/- towards enhanced compensation, which was not deposited by respondent No.2. Respondent No.2 having aggrieved with both raising enhancement demand, as well as demand towards non-

construction charges, has filed an application dated 9.12.2016, before the Permanent Lok Adalat concerned, under Section 22-C of the Legal Services Authority Act, 1987. The application was contested by the petitioner/Trust and it was specifically mentioned that on account of enhanced award, the petitioner raised apt demand of Rs.20,000/- from each allottee, after calculating the same in accordance with the provisions of law. The Permanent Lok Adalat concerned, has found that the demand which was sought for non-construction from respondent No.2, is in fact, factually incorrect and further observed that the demarcation of the plot in question was effected on 25.4.1996, therefore, the possession ought to have been offered to respondent No.2, only after the demarcation of the plot and it was held that the possession was delivered to respondent No.2 on 25.4.1996, whereas, the construction was to be completed by respondent No.2, on or before 24.4.1999, and nothing contrary was brought on record by the petitioner/Trust to belie the above facts. Further, the Permanent Lok Adalat concerned has observed that the enhanced amount on account of enhancement in the compensation of the acquired land was also not substantiated by the petitioner/Trust, as no copy of award, or any calculation sheet was placed before it.

3. Learned counsel for the petitioner submits that admittedly the petitioner/Trust failed to submit the copy of the order passed by the Land Acquisition Tribunal concerned, to substantiate their claim of demand, as has now been placed on record with the instant petition, therefore, the impugned award passed by the Permanent Lok Adalat concerned, is required to be interfered, as the demand raised by the petitioner/Trust is legal and genuine. However, he opted not to address any arguments with regard to the

charges levied upon respondent No.2, on account of non-construction charges.

4. Learned counsel for respondent No.2 submits that till date the petitioner/Trust has not accepted the impugned award and has not placed on record the calculation of any statutory authority, wherethrough, the demand of Rs.20,000/- has been raised. He further submits that whether the impugned award pertains to the plot in question is still a matter of dispute, which the petitioner/Trust ought to have established before the Permanent Lok Adalat concerned, by leading cogent evidence, in which they in fact failed. Finally, he placed reliance upon a judgment rendered by a co-ordinate Bench of this Court in CWP-28836-2018 titled as “Ropar Improvement Trust Vs. Permanent Lok Adalat, Rupnagar and another” wherethrough, the similar award was challenged and the award of the Permanent Lok Adalat concerned, was ordered to be upheld.

5. This Court has considered the rival submissions made by the learned counsel for the parties concerned, and after perusal of the entire record, is of the view that the instant petition is bereft of any merit.

6. Though the petitioner/Trust has placed on record the copy of award, wherethrough, the Land Acquisition Tribunal concerned, has enhanced the amount of land acquired, however, they are unable to place on record any document to substantiate the demand of Rs.20,000/-. It is apt to note here that it was the petitioner/Trust, who withheld the important evidence, therefore, only they have to suffer for the same. The petitioner/Trust was at liberty to place on record the copy of award, as well as calculation sheet before the Permanent Lok Adalat concerned, however, the same opportunity was not exercised in its right perspective. The similar

issue has already been considered by a co-ordinate Bench of this Court in Ropar Improvement Trust's case (supra), wherein it has been observed as under:-

“Notwithstanding the admitted facts noticed above, the petitioner-Improvement Trust was also at liberty to place on record the relevant evidence to substantiate as to how and in what manner the amount of enhancement had been calculated and whether the demand had been raised and also to clarify as to whether the demand against enhancement was due in the year 2000, when the transfer was sought or not. The petitioner-Improvement Trust however has remained non-responsive on the same. The petitioner being in possession of the said record, withholding of the best evidence by the petitioner is invariably likely to lead an adverse inference against the said petitioner.”

7. Though the petitioner/Trust has not raised any argument with regard to the observations made by the Permanent Lok Adalat concerned, regarding waiving of the non-construction charges, and further passing the impugned award for returning the amount with interest, yet it is apt to note here that after considering all the factual aspects, the Permanent Lok Adalat concerned, has rightly constituted that the non-construction charges have erroneously been levied upon respondent No.2. The relevant extract of the award reads as under:-

“12. We don't agree with the respondents that the construction was to be carried and completed within 3 years of the allotment of the plot. Till the possession of the plot was delivered, it was not possible to raise construction over it. Ex.A7 is the information provided by the respondent trust under the R.T.I. Act. It shows that the demarcation of the plot was effected on 25.04.1996. We are of the opinion that the

possession cannot be delivered without demarcation of the plot. Hence, we hold that the possession in this case was delivered to the applicant on 25.04.1996. That way, the construction was to be completed by 24.04.1999. But the applicant claims that he had completed the construction in 1997. The respondents however do not state as to when the construction was completed. Hence, in these circumstances, the claim of the applicant prevails and it is to be assumed that the construction was completed in 1997. Furthermore, the letter dated 02.12.1996 issued by the applicant is Ex.AB and the postal receipt Ex.A9 reveal that the applicant had informed the respondent trust that he had constructed the roof on 30.11.1996, Ex.A10 is the letter of the Electricity Board which reveals that the electricity connection was released to the plot in question on 20.05.1997. In the absence of any explanation to the contrary, it is understandable that the electricity connection was released to the applicant only after the construction of the house in question was complete. These circumstances also reveal that the claim of the applicant that he had completed the construction of the house on the allotted plot in 1997. Obviously, he had raised the construction well within the stipulated period of 3 years. Obviously, the respondent trust was not entitled to recover any non-construction charges. Hence, the non-construction charges along with interest deposited by the applicant vide Ex.A13 and Ex.A14 are required to be refunded by respondent trust to the applicant.

13. *Ex.A28 is the letter dated 08.02.1997 written by the applicant to the respondent trust. It was served on the respondent trust through regd. post and the acknowledgment is Ex.A29 showing that the respondent trust had received the said letter. Ex.A28 reveals that on 08.02.1997, the applicant wrote to the respondent trust that he had constructed the roof but the approach road was yet to be provided to him. Hence, he*

prayed that the approach road and the street light may be provided at the spot. Then he wrote letter Ex.A30 dated 20.03.1997 through postal receipt Ex.A31 to the effect that a Kucha Road had been provided. He prayed that a Pucka Road may be provided. These documents clearly reveal that the access road had not been provided to the plot in question till 1997. Furthermore, in the written statement, the respondents do not assert that they had constructed and provided Kucha and Pucka Road to the plot in question till 1997. We are of the firm opinion that no non- construction charges can be recovered till the basic amenities are provided to the plot. Our opinion above said is based upon Improvement Trust Bathinda versus Karori Mal Mittal 2017(2) CPJ 227. In the above said judgment also, it was laid down that where the basic amenities are not provided, non-construction charges cannot be recovered or demanded. On that account also, the respondents are not entitled to recover and retain the non-construction charges and interest thereon.

14. *It is agreed that in the sale deed it has been written that the possession had been delivered to the applicant on 21.06.1994. The Id. Counsel for the respondents, by relying upon the same, has contended that the possession of the plot was delivered to the applicant on 21.06.1994. First of all, we do not agree with the Id. Counsel for the respondents. As we have held earlier, the possession was delivered only when the plot was demarcated by the respondents. Otherwise also, if it is assumed that the possession was delivered on 21.06.1994, even then, the construction was to be raised by 20.06.1997 and the applicant had duly done the same. Obviously, the respondents are not entitled to recover or retain the non-construction charge and interest there on.”*

8. In view of the above, this Court does not find any perversity or illegality requiring any interference. This Court has to examine as to

whether the impugned award has been passed after adhering to the principles of natural justice, fairness, equity and other principles, as enshrined in Section 22 (D) of the Legal Services Act, 1987, therefore, the instant petition is **dismissed** being bereft of any merit.

January 20, 2025
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(KULDEEP TIWARI)
JUDGE

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