

2025:PHHC:047135-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-16443-2016 (O & M)

Reserved on: 06.03.2025

Pronounced on: 01.04.2025

M/S JANTA LAND PROMOTERS PVT. LTD.

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Brijesh Khosla, Advocate
for the petitioner.

Mr. Maninderjit Singh Bedi, Addl. Advocate Genl., Pb. &
Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Rupinder Singh Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate
for the respondent - GMADA.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein seeks quashing of the impugned demand notice dated 18.03.2014 (Annexure P-25), order dated 07.10.2014 (Annexure P-40), demand notice dated 29.10.2014 (Annexure P-43), demand notice dated 01.04.2016 (Annexure P-46) alongwith the subsequent respectively issued letters/orders dated 01.04.2016 (Annexure P-47) and (Annexure P-48) and notice dated 11.07.2016 (Annexure P-54).

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2. The afore demand notice appertains towards levy of EDC, License Fee, UDF and SIF charges in respect of the Additional Area of 93.35 acres of land added by the petitioner to their already approved 300 acres Mixed Used Mega Industrial Park Project in Sectors 82 and 90-91, SAS Nagar, Mohali.

3. Further, the petitioner prays for the passing of a mandamus upon the respondents for issuing refund of the amount deposited by the petitioner alongwith its letter dated 05.04.2016 (Annexure P-49) to the extent, that the same pertains to the subject project ;

4. In addition, the petitioner prays for the passing of directions, upon the respondents for granting exemption from payment of stamp duty in respect of first sale of plots in the entire project area and to also grant sanction of the revised layout plans already submitted by the petitioner and other such permissions, as are necessary in respect of the aforesaid project.

Factual Backdrop of the case.

5. That the Punjab State Government notified the Industrial Policy -2003, wherein, certain incentives were to be provided to investors and promoters for setting up Mixed Use Mega Industrial Parks. The State Government issued notification dated 02.04.2003 (Annexure P-2) exempting all Industrial/Agro/Information Technology Parks from payment of EDC payable under Sub Section (5) of Section 5 of the Punjab Apartment and Property Regulation Act, 1995. The petitioner applied for setting up Mixed Use Mega Industrial Park

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Project in a total area of 300 acres (120 acres residential component in sector 90-91, Mohali and 180 acres Industrial Component in Sector 82, Mohali). The petitioner's application was approved by the Empowered Committee constituted under the Industrial Policy -2003 in its meeting held under the Chairmanship of the then Hon'ble Chief Minister. The Committee approved the grant of the special package of incentives in respect of the Mixed Use Mega Industrial Park Projects to be set up by the petitioner in an area of 300 acres in SAS Nagar Mohali with an investment of Rs.264.80 crores.

6. An agreement was executed between the petitioner and the State of Punjab. Various concessions were agreed to be provided to the petitioner by the Government of Punjab such as i) exemption from PAPR Act i.e. exemption from payment of EDC and License Fee: (ii) exemption from payment of any CLU charges in respect of the land use change required for the petitioner's project; (iii) 100% exemption from payment of stamp duty and registration fee on sale/transfer of built up space or the unit or land in the proposed project area, (iv) compulsory acquisition of land to the extent of 10% of the total project area by the Government at the request of the petitioner. The petitioner submitted its Layout Plans for approval.

7. Thereafter, since there was an addition of 93.35 acres of land in the said project, therefore, revised layout plans were accordingly submitted. The necessary sanction in respect of 393.35 acres including the additional area of 93.35 acres of the Mixed Use

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Mega Industrial Park Project was granted by the Chief Town Planner, Punjab vide letter dated 03.04.2006 (Annexure P-10). Thereafter, the petitioner completed the project in the stipulated time and intimated the same vide letter dated 08.10.2008 (Annexure P-14) and letter dated 03.06.2011 (Annexure P-18).

8. Subsequently, the respondent raised demand towards EDC/Licence fee/CLU charges etc., in respect of 138.35 acres of the residential and commercial component of the project being developed by the petitioner in Sectors 90-91, SAS Nagar Mohali.

9. The petitioner filed **CWP-11744-2008**, thus seeking the quashing of the afore said demand. The said petition became allowed vide order dated 26.11.2010 (Annexure P-17). The relevant portion of the said order becomes extracted hereinafter.

“72. On principles, precedents and agreements by the respondent-State, which is binding under Article 299, these petitions succeed. We hold that the agreement dated 24.06.2005 duly executed between the parties is valid and binding on both the parties as per the subsequent notifications (P-8 Colly). Accordingly, the respondents are directed to refund the amount of bank guarantee, amounting to Rs.1,37,17,000/- and also refund the external development charges of Rs.29,37,083/-. The demand notices dated 16.07.2004 (P-3), 21.5.2008 (P-19), 22.08.2007 (P-22) and notice dated 24.6.2008 (P-25) are also quashed. The order dated 21.5.2008 (P-19) raising the demand on account of external development charges/licence fee/change of land use for the mega project is also quashed....”

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10. The respondent authorities preferred SLP challenging the judgment dated 26.11.2010 passed by this Hon'ble Court in CWP No.11744 of 2008. The said SLP became dismissed by the Hon'ble Supreme Court vide order dated 23.08.2011.

11. Thereafter, the petitioner filed COCP No. 1469 of 2012 in CWP No. 11744 of 2008 for willful and deliberate disobedience of the order made by this Court on 26.11.2010. The said petition became decided on 20.02.2013. The relevant part of the order dated 20.02.2013 becomes extracted hereinafter.

“There is no dispute that the petitioner has received back the bank guarantee deposited by him with the respondents-authorities. There is no further dispute between the parties that all the amounts which were ordered to be refunded to the petitioner as mentioned in the judgment dated 26.11.2010 passed in CWP No. 11744 of 2008 and CWP No. 18518 of 2008 have been received by him.

In this view of the matter, this Court is not inclined to proceed further with this contempt petition.

Needless to say, the petitioner is at liberty to seek any other relief available to him in accordance with law on the basis of the aforesaid judgment dated 26.11.2010..”

12. The petitioner once again submitted its revised lay-out plans for internal changes as became necessitated owing to prevailing site conditions respectively in Sectors 90-91 and sector 82, Mohali. A letter dated 03.01.2014 was issued by the Chief Town Planner to CA, GMADA informing him that the revised layout plan/drawing dated 11.7.2013 were received in the Chief Town Planner's office and before

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the same could be processed further, the NOC may be given by CA, GMADA.

13. Thereafter, a meeting of the Screening Committee was held on 28.02.2014. The Screening Committee recommended for the addition of land measuring 93.35 acres of land, onto the already approved 300 acres of Mixed Use Mega Industrial Park Project Mohali, as per the already approved layout plans by the Chief Town Planner, Punjab, and, with the applicability thereons of the terms and conditions of the earlier agreement dated 24.6.2005, signed by the competent authority with the government under the Industrial Policy, 2003, besides with an increase in investment from 264.80 crores to Rs. 350 crores.

14. The Committee also recommended for the grant of another two years period from the date of issue of eligibility certificate, thus for availing the concession of stamp duty and registration fee, exemption on first sale or transfer as per the agreement dated 24.6.2005 for the Industrial Component.

15. However, despite the aforesaid recommendation, a demand notice dated 18.3.2014 (Annexure P-25) was issued to the petitioner by the CA, GMADA thereby raising a demand of 62.48 crores (approx.) on account of the payment of the EDC charges, licence fee, etc. The petitioner submitted a reply to the aforesaid demand notice dated 18.3.2014, through their counsel, requesting that the demand notice dated 18.3.2014 (P-25) be withdrawn. An opportunity of hearing was

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granted to the petitioner by the Chief Administrator, GMADA on 7.5.2014. The correct position regarding the illegality and unsustainability of the illegal demand raised by Annexure P-25 was explained. It was pointed out on behalf of the petitioner, that the Screening Committee, had already approved the addition of the area of 93.35 acres as part of the Mixed Use Mega Industrial Park Project in terms of the layout plan already sanctioned by the Chief Town Planner and the earlier agreement executed between the government and company under the Industrial Policy, 2003. The matter was however adjourned to await the orders of the Screening Committee and to enable the counsel for the petitioner to submit a written brief of submissions in the said matter.

16. A letter dated 22.05.2014 was addressed to the CA, GMADA on behalf of the petitioner requesting the CA, GMADA to fix a next date of hearing in the said matter. A written brief of submissions dated 26.5.2014 was also submitted to the CA, GMADA. Thereafter, a meeting of the Empowered Committee was held on 11.06.2014, wherein recommendation(s) (supra) of the Screening Committee dated 28.2.2014 regarding the increase in the land area of the project of the petitioner company, thus became reconsidered.

17. The Empowered Committee allowed the addition of 93.35 acres of land in the already approved 300 acres of Mixed Use Mega Industrial Park Project along with increase in total investment from 264.80 crores to 350 crores in the project with the direction regarding

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payment of EDC, CLU and license fee etc. by the company in respect of the additional land i.e. 93.35 acres, besides the Empowered Committee stated that the Department of Housing and Urban Development would take further necessary action in the matter in the light of the earlier decision by the Hon'ble Supreme Court and shall also decide whether the said decision was applicable or not applicable to the additional land. Further, the Empowered Committee approved the grant of another two years for availing the concession of stamp duty and registration fee etc. appertaining to the Industrial Component only.

18. Thereafter, a letter dated 07.10.2014 (Annexure P-40) was issued by the ACA, GMADA, informing the petitioner company that the issue regarding the demand raised vide notice dated 18.3.2014 was considered at the level of the government and it was decided that the demand for EDC, CLU, License fee etc., is recoverable from the petitioner at the current rates in respect of the additional area, being developed by it in excess of the agreement dated 24.6.2005, already entered between the petitioner and the government.

19. Moreover, on the basis of the decision of the Empowered Committee dated 11.06.2014, an Eligibility Certificate under the Industrial Policy, 2003, was issued to the petitioner for enabling it, to avail the concession of stamp duty exemption as per agreement dated 24.6.2005 in respect of the Industrial Component of 244.91 acres of the said project only.

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20. Being aggrieved the petitioner again preferred COCP no.3257 of 2014 in CWP No. 11744 of 2008 which was permitted to be withdrawn vide orders dated 6.8.2015 with liberty to the petitioner to seek his remedy in accordance with law.

21. The petitioner accordingly filed Civil Writ Petition no.16722 of 2015 praying for quashing of the order dated 18.03.2014 (Annexure P-25), order dated 07.10.2014 (Annexure P-40) and order dated 29.10.2014 (Annexure P-43).

22. During the pendency of CWP No. 16722 of 2015, the petitioner filed an application seeking amendment of the writ petition, thus to challenge the subsequent events which took place after filing of the said writ petition. When the said application came up for hearing on 14.07.2016, it was observed in Court that instead of seeking an amendment in the said writ petition, a substantive fresh writ petition incorporating the disputed issues may be filed by the petitioner.

23. Accordingly, the instant substantive present writ petition incorporating the disputed issues has been filed by the petitioner herein.

Inferences of this Court.

24. Though the facts (supra) are exhaustive but the controversy is crisp, inasmuch as, it is confined to :

a) whether the decision dated 11.06.2014 (Annexure P-34) recorded by the Empowered Committee, whereby, an additional area/land measuring 93.35 acres, in the initially approved 300 acres of Mixed Use Mega Industrial Park Project, does require the

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endowment(s) of concessions theretos, as became endowed to the present petitioner vis-a-vis the initially approved area of 300 acres for the project (supra). The said initially made endowments were to the hereinafter extents.

a) As per the Industrial Policy 2003 exemption will be granted on 100% stamp duty and registration fee on sale / transfer of built up space of the units or land in side the project area. Such exemption shall extend to the project area upto first sale of developed area / plot/built up space to any party by them or to any of its affiliate. There shall be no stamp duty on lease instrument of units located in the project area. Such exemption shall remain operative till the completion of the entire project as per the agreement.

b) State Government shall acquire land as per provision of the Land Acquisition Act to the extent of 10% of the total area of the project, if requested by the company.

c) The land use change in the area falling under the control of the Punjab Periphery Control Act shall be allowed without any charges levied by the Housing and Urban Development Department in accordance with the draft master layout plan of the periphery and periphery policy of the Government of Punjab. However, such concession would be subject to the decision of various cases pending in Hon'ble High Court of Punjab and Haryana on this issue. However, if any or whole part of land of the project area is not covered in any master plan or planning zone under PUDA Act, the land use thereof shall not be changed or amended and shall be incorporated as such and included in any future master plan or zoning which shall be prepared under the PUDA Act.

d) permission under Punjab State Tubewell Act, 1954 to dig Tubewall in project area for requirement of the project was allowed.

e) Exemption from the provision of Punjab Mines & Mineral Act shall be allowed within the project area for works relating to development of the project.

f) High-rise buildings beyond 45 metres shall be allowed subject to clearance from Air Force Authorities.

g) Work contract tax on construction material required for the project shall be charged at minimum floor rate.

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h) FAR of 2 shall be allowed for industrial and commercial purpose. However, the relevant Building Bye-laws/ regulations shall be applicable to the area.

i) The State Government shall ensure that connectivity to power, roads, accessibility, communication, civic and other infrastructure upto project is provided within 240 days from the date the same is applied for to the concerned department/agency/authority / local body on fulfillment of various terms and conditions required in this regard at such rates / fee etc. which shall not be less favourable to them compared to similarly placed projects/customers.

j) The project of industrial park shall be exempted from PAPR Act.

k) Exemption from electricity duty (excluding cess) for 5 years shall be allowed from the date of release of connection by PSEB.

l) State Government shall allow the company to connect the project area to the State Transport Network. The State Government shall also allow them to operate their own public transport system within the project area and also for connecting the project area to the main urban centre nearest to the project area subject to the fulfillment of required terms and conditions in this regard.

m) The State Government shall not allow hazardous industry as defined under Factories Act within 500 metres of the project area and industrial plots within the industrial park shall also not have any hazardous industry.

n) Pollution Control Board shall grant NOC and consent to operate to the Green Category Industry to be located in the Industrial Park in 30 days on fulfillment of all the required terms and conditions.

o) No State Agency shall erect any barrier or create hindrance in various connectivities which shall be allowed to the project as per Sr. No. (i) above except on the ground of major law and order problem or National Security considerations.

p) The State Government may consider notifying the project area finally developed as an Industrial Township under Article 243(Q) of the Constitution of India.

q) The Department of Industries shall be the single Nodal Agency for facilitating the project and getting clearances etc. required for the unit for the project and the project area and will also get resolved various issues which will relate to the

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Government Departments or Punjab Government Public Sector Undertakings/Authority/Local Body...”

b) Moreover, pursuant to the decision recorded by this Court upon, CWP-11744-2008, on 26.11.2010 (Annexure P-17), whereby, the demand raised by the respondent-Department on account of external development charges/license fee/change of land use for the mega project became quashed. In addition, in terms of the said decision, the thereby endowed benefits to the present petitioner were limited to an area measuring 300 acres, for setting up a mixed use mega Industrial Park Project in Mohali, in respect of whereof agreement was made on 24.06.2005, between the petitioner and the Governor of Punjab, through the Secretary, Industries and Commerce, Government of Punjab.

25. Now, for applying the mandate of the said decision, to the instantly raised demand, besides to apply to the instantly raised demands the norm of constructive *res judicata*, whereby, the respondent may become estopped to re-create a demand in respect whereof, relief was earlier granted by this Court to the petitioner, this Court requires the extraction of reliefs canvassed in the earlier writ petition, specifically appertaining to the area covered in the said writ petition, thus including both the initial areas as well as the subsequently added area.

26. In the said regard, a perusal of the order dated 26.11.2010 (Annexure P-17) made by this Court, upon, CWP-11744-2008, reveals that relief claimed by the petitioner therein, appertained to the lands

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measuring 300 acres, as covered in the initial agreement dated 24.06.2005, thus, made between the petitioner and the Governor of Punjab, through the Secretary, Industries and Commerce, Government of Punjab. Emphatically, the subsequent additional area measuring 93.35 acres was added subsequently and the said subsequently added area was not a part of the relief canvassed in the earlier writ petition. Therefore, when the relief was not claimed in the earlier writ petition vis-a-vis the instant subsequently added area, therebys, the relief as claimed earlier, thus is naturally to be concluded to be confined to only an area of 300 acres, and, is to be declared to be not covering the subsequently added area of 93.35 acres.

27. Consequently, therebys, the norm of constructive *res judicata* does no operate, vis-a-vis the subsequently added area nor the benefit of the said decision can be expanded qua an additional area of 93.35 acres, which did not form part of the initial agreement dated 24.06.2005, made between the petitioner and the Governor of Punjab, through the Secretary, Industries and Commerce, Government of Punjab.

28. Therefore, when over/qua an area measuring 300 acres in the initially approved project (supra), an area measuring 93.35 acres became subsequently added. In sequel, to the said additional area, there was but a concomitant necessity to make such demands upon the present petitioner, as appertaining to the external development charges, as therebys the interest of home dwellers/buyers become well protected

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rather for therebys in case of any omission to make any external developments, thereupon, the bank guarantees or the solvent indemnity bond(s), as required to be furnished, in terms of the relevant statutes, thus would work as a financial corpus, to enable the competent authority, to complete the external development works, which may become abandoned by the developer, thus causing agony to the home buyers/allottees concerned.

29. Moreover, since the counsel for the petitioner has not been able to demonstrate that the presently raised demands, are outside the ambit of the relevant rules and regulations. Resultantly this Court finds no discrepancy(ies) in the impugned demand notice(s), and, accordingly affirms the same.

Final Order of this Court.

30. In aftermath, this Court finds no merit in the writ petition and with observations above, the same is dismissed.

31. Since the main case itself has been decided, thus, all the pending application(s), if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

01.04.2025
kavneet singh

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