



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

LPA-506-2021 (O&M)

Date of Decision : 25-03-2026

**SHAHEED BHAGAT SINGH CO-OPERATIVE HOUSE BUILDING
SOCIETY LTD.**

.....Appellant(s)

VERSUS

**LUDHIANA IMPROVEMENT TRUST AND OTHERS AND
OTHERS**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sanjay Kaushal, Senior Advocate with
 Ms. Ojaswini Gagneja, Advocate
 for the appellant.

 Mr. Neeraj K. Jain, Senior Advocate (*joined through V.C*)
 with Mr. Sanjeev Sharma, Advocate and
 Mr. Hoshier Singh, Advocate
 for the respondent No.1-LIT.

 Mr. Rahul Rampal, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the order dated 12.05.2021 passed by the learned Single judge by which, the writ petition filed by the Ludhiana Improvement Trust, has been allowed and the order impugned dated 30.10.2017 passed by the Disputes Redressal Forum, Ludhiana in the Execution Petition, has been set aside.

2. Certain facts needs to be noticed for the correct appreciation of the issue in hand.
3. The appellant-Society claims to be owner of the land measuring 16800 sq. yards located in the Village Dugri District Ludhiana. The “Ludhiana Improvement Trust” in order to carry out a planned development of approximately 400 acres of the land located at Ludhiana, proposed scheme to be formulated under the Punjab Improvement Trust Act, 1922.
4. In order to implement the said scheme, the compulsory acquisition of the land was ordered to be done by the State of Punjab and the land of the appellant as well as some other similarly situated societies, was acquired.
5. The said compulsory acquisition of land was challenged by the appellant in CWP No.5166 of 1975, which writ petition was withdrawn on 03.05.1976.
6. Thereafter, the Government decided to release the land belonging to the appellant society as well as of some other societies from compulsory acquisition vide Notification dated 25.06.1981.
7. The Ludhiana Improvement Trust decided to include the land of the appellant within the Development Scheme but on certain terms and conditions that no change is to be undertaken in the Development Scheme formulated.
8. After the framing of the Development Scheme, the actual land of the appellant-Society vide resolution No.593 dated 29.08.1990 was utilized within the Scheme and while using the land of the appellant-society, society was offered 58 plots which were to be allotted to its members.

9. It may be noticed that while framing of the Development Scheme, the actual land which was being owned by the society was utilized for creation of certain green belt and the members of the society were accommodated in the other areas of the land falling in the Development Scheme so as to be given 58 plots.

10. After the allotment of such 58 plots to the society, the grievance of the appellant-Society emerged as, out of the total 58 plots allotted, possession of only 25 plots could be taken whereas, according to the appellant, remaining 33 plots out of the 58 plots could not be taken possession of by society, though offered, due to various reasons including the nature of land or the land was under execution.

11. In order to get the allotment and possession of the remaining 33 plots, the litigation between the appellant-Society and the Ludhiana Improvement Trust stretched. Keeping in view the order dated 15.02.1996 passed by Consumer Disputes Redressal Forum (CORF) and further orders passed in appeal filed against said order, a direction was given by the competent Court of law that possession of the remaining 33 plots without any encumbrance should be given to the society to be allotted to its members.

12. Further, vide order dated 11.04.2002, the resolution dated 29.08.1990 which was passed by the Ludhiana Improvement Trust whereby the appellant-Society was granted allotment of plots within the Development Scheme framed, was set aside by the Government so as to mean that the land belonging to the society which was included by the Ludhiana Improvement Trust could not form part of the Development Scheme and the

land owned by the Society was returned back to the society to be utilised by them without the said land being made the part of the Development Scheme formulated by the Ludhiana Improvement Trust.

13. Keeping in view the subsequent decision of the Government in the year 2002 i.e. 11.04.2002 wherein the resolution passed by the Ludhiana Improvement Trust for including the land of the appellant- Society within the Development Scheme had been set aside the society approached the appropriate court qua grant of plots by way of execution of the order passed by the Consumer Court for allotment of 33 plots when the land of the appellant-Society was the part of the Development Scheme. An order dated 30.10.2017 was passed by Executing Court directing therein the Ludhiana Improvement Trust to hand over allotment of 33 plots in the Development Scheme to the appellant- Society keeping in view the order dated 07/15.02.1998 passed by NCDRC.

14. A writ petition was initially filed by Ludhiana Improvement Trust, before this Court challenging the order passed in execution, which was not pressed with a liberty to approach the competent Court of law qua the order passed in the execution. But later on, such proceedings though initiated but were not pressed with liberty to revive the writ petition as, against an order passed in the execution, writ petition was hence maintainable hence, the writ petition which was filed by the Ludhiana Improvement Trust being in CWP No. 3977 of 2018, was revived.

15. The learned Single Judge after appreciating all the facts on record has allowed the writ petition to hold that once, the appellant-Society did not remain part of the Development Scheme under which they were

seeking the allotment of 33 plots keeping in view the resolution dated 11.04.2002 passed by the State of Punjab to exclude the land belonging to the appellant-Society from the Development Scheme, execution of the order dated 15.02.1996 could not have been allowed so as to give direction to the Ludhiana Improvement Trust to grant allotment of 33 plots to the members of the appellant-Society as, the appellant-Society never remained part of the Development Scheme after 2002 onwards.

16. The said order is under challenge in the present appeal.

17. Learned Senior Counsel appearing on behalf of the appellant submits that the learned Single Judge has recorded a finding while allowing all the writ petition filed by the Ludhiana Improvement Trust that the officers of the Ludhiana Improvement Trust were in connivance with the office bearer of the appellant-Society so as to include them in the Development Scheme which has caused prejudice to the Government as well as the Ludhiana Improvement Trust and further once the resolution dated 29.08.1990 passed by the Ludhiana Improvement Trust qua including the appellant-Society as the part of the Development Scheme to develop the area, was already set aside by Government vide resolution dated 11.04.2002, the orders passed by competent court of law directing to give 33 plots to the appellant-Society within the said Development Scheme, could not have been implemented, in view the subsequent fails.

18. Learned Senior Counsel for the appellant further submits that the said view taken by the learned Single Judge is incorrect as, once, the orders had been passed by the competent court of law granting allotment of 33 plots to the society within the Development Scheme framed by the

Ludhiana Improvement Trust, which litigation attained finality up to the order of the Supreme Court of India, the non-implementation of such orders in the favour of the appellant-Society would amount to ignoring the orders passed by the competent court of law and therefore, the view taken by the learned Single Judge is incorrect and liable to be set aside.

19. The learned Senior Counsel for the appellant also contended that though, certain assertion were to made before the learned Single Judge so as to record that appellant-Society connived with the officials of the Ludhiana Improvement Trust for their unlawful gain but, said finding recorded cannot take away the right which had been crystallised in the favour of the member of the society to get allotment of 33 plots within the Development Scheme, which fact has also been ignored by the learned Single Judge.

20. Learned Senior Counsel for the appellant further submits that once the same argument was taken in the main petition before competent court of law where allotment of 33 plots was being claimed by the appellant-Society from the Ludhiana Improvement Trust and after considering such facts, an order granting said benefit was passed by the competent court of law and the Executing Court in compliance of the said order could not have gone beyond the said order, the said fact has been ignored by the Learned Single Judge while upsetting the order dated 30.10.2017 passed by the Executing Court wherein direction was given to the Ludhiana Improvement Trust to hand over 33 plots to the appellant-Society.

21. The learned Senior Counsel appearing on behalf of respondent-Ludhiana Improvement Trust submitted that the learned Single Judge rightly

appreciated the fact that the basis of the competent court in giving direction to allot 33 plots in favour of the members of the appellant-Society in the Development Scheme was passed prior to the date when the Government of Punjab took a decision on 11.04.2002 to exclude the appellant-Society from the Development Scheme but once, the order dated 11.04.2002 passed by the Government stipulating therein that the land of the society in the Development Scheme is not to be utilized in the Development Scheme, the claim qua 33 plots in the Development Scheme stood extinguished and therefore, in the absence of any challenge laid down to such resolution dated 11.04.2002 passed by the Government, the said 33 plots could not have been directed to be handed over in an execution proceeding to the appellant especially when at that time period the land belonging to the appellant-Society was not the part of the Development Scheme any longer and their land already stood relieved from the acquisition as far back as in the year 1981 and the appellants are free to use their land in any manner they want.

22. The learned Senior Counsel for the respondent further submits that it is not only the land of the appellant-Society which was released from the Development Scheme by the Government, but there were other societies, land belonging to whom was also released from the Development Scheme and those societies were also treated not to be the part of the Development Scheme any further so as to be allotted any plot within the Development Scheme and similar claim raised by such societies claiming grant of plots from the Ludhiana Improvement Trust within the Development Scheme had already been negatived by this Court while

passing order in CWP No.3245 of 1995 decided on 03.12.2014. Hence, keeping in view the totality of the circumstances, the order passed by the learned Single Judge, is perfectly valid and legal and the same may kindly be upheld.

23. The learned Senior Counsel appearing on behalf of the appellant argues that the other societies, whose claim for the allotment of plot within the Development Scheme have been rejected by this Court were not similarly situated as, the land which belonged to such societies, was not made part of the open spaces in the Development Scheme, which was done in the cases of the appellant-society so as to create a differentiating point between such society and the appellant-society.

24. Learned Senior Counsel for the appellant submits that since 1981, the appellant-society has not been able to utilize its land for the benefit of its member and now, after a period of 04 decades, they cannot be left in lurch so as to oust them from the Development Scheme framed by the Ludhiana Improvement Trust especially when an order passed by the executing court granting the same is in existence.

25. Learned Senior Counsel for the appellant submits that the layout plan of the Development Scheme, which was formulated in the year 1981, was only changed in the year 2021 so as to oust the land of the appellants from the Development Scheme hence, the resolution which was passed by the Government on 11.04.2002, cannot be brought in operation to deny the benefit of allotment of plots in favour of the appellants hence, the order passed by the learned Single Judge, may kindly be set aside.

26. We have heard the learned Senior Counsel for the parties at length and have gone through the records of the present case with their able assistance.

27. It is a matter of fact that prior to the formulation of the Development Scheme in the year 1981, the land of the appellant-Society was compulsorily acquired in the year 1975. The said acquisition of land was resisted by the appellant-society and even a writ petition was filed by the appellant-society in this Court in the year 1975, which writ petition was withdrawn. Ultimately, upon consideration of the situation present at the time, Government of Punjab decided to release the land belonging to the appellant-society measuring 16,812 square yards from acquisition vide notification dated 25.06.1981.

28. After the land so compulsorily acquired was released by the Government in the year 1981, the land belonging to the appellant-Society remained with the Society itself. But, the Ludhiana Improvement Trust decided to include the said land into the Development Scheme while framing the same so as to allot 58 plots to the members of the appellant-society by passing a resolution dated 29.08.1990. It is a matter of fact that though 58 plots were allotted to the society in the Development Scheme but the same were not to the liking of the appellant-Society. It is due to said reason that a litigation was entered into between the Ludhiana Improvement Trust as well as the members of the appellant-Society.

29. In the litigation, the appellant-Society remained successful up to the Hon'ble Supreme Court of India qua the direction given by competent Court of law for the possession of 33 plots in the Development Scheme

which remained to be given to them out of total 58 which were allotted to them.

30. In the meantime, the Government of Punjab took a decision to oust the appellant society to be a part of the scheme for development of the area, which decision was taken on 11.04.2002 by setting aside the resolution passed by the Ludhiana Improvement Trust so as to make appellant-society and some other societies to be part of the Development Scheme. Once, the Government took a conscious decision in April 2002, that the land belonging to the appellant-society will remain in their ownership only and their land will not be treated as a part of the Development Scheme, the grievance should have been raised before the competent authority then and there qua such action so as to claim the benefit of plots under Development Scheme. It is a conceded fact that the decision of ousting the appellant from being the part of the Development Scheme which was taken on 11.04.2002 has remained unchallenged at the hands of appellant even up to now. That being so, the appellant cannot at a later stage claim that they are the part of the Development Scheme floated by the Improvement Trust still to be entitled for allotment of 58 plots in the said Development Scheme.

31. Not only this, based upon the decision of the Government dated 11.04.2002, 25 plots which were given to the appellant-Society in Development Scheme, were also withdrawn by the various order by the Ludhiana Improvement Trust, which action also led to initiation of litigation in which, Ludhiana Improvement Trust successfully depending upon the cancellation of such allotted plots in the Development Scheme. Learned Senior Counsel for the appellant has not been able to rebut the said fact.

32. The learned Senior Counsel submits that the Executing Court was required to implement the order passed between the parties by the competent Court of law, which order had attained finality and therefore, the order passed by the Executing Court directing to grant of plots to appellant in Development Scheme, which had been set aside by the Learned Single Judge, is incorrect. It may be noticed that as per the settled principle of law even after the finalization of adjudication of an issue persisting between the parties, the basis of the said decision is taken out, the same is even purview either of the parties.

33. In the present case, the litigation between the Ludhiana Improvement Trust as well as the appellant-Society got initiated and was based upon the decision of the Ludhiana Improvement Trust to include the land of the appellant within the Development Scheme so as to allot 58 plots but once, subsequent to the decision in such litigation, the Government consciously decided to oust the appellant-society from the scheme vide resolution dated 11.04.2002, the land owned by the society measuring 16800 sq. Yards, cannot not to be treated as a part of the Development Scheme so as to allot plots in the Development Scheme and appellant-Society remains the owner of the said land keeping in view the order passed by the Government dated 25.06.1981 by which, the said land was released from the compulsory acquisition as well as vide decision dated 11.04.2002 directing therein that appellant-society will not be a part of the Development Scheme. Failing to challenge such order dated 11.04.2002 passed by the Government, the Executing Court was required to dwell upon the aspect that whether, once the land belonging to the appellant had been excluded from the

Development Scheme, still the benefit of judgment passed by the competent Court of law, which only directed to handover 33 plots in Development Scheme, can be complied with or not, the answer to which, if same had been sought, would have come in negative.

34. Learned Single Judge has rightly appreciated the facts of the present case in order to record a finding that once, after finalization of the litigation pending between the parties, which was based upon a particular fact that the land belonging to the appellant was made part of the scheme by the Ludhiana Improvement Trust by passing a resolution, and which resolution had been nullified by the Government on 11.04.2002, the appellants could not have agitate that they are still entitled for grant of allotment of 58 plots in the Development Scheme, of which they no longer remained a part, after passing the resolution passed by the Government dated 11.04.2002, especially when the order of the Government dated 11.04.2002 remained unchallenged even as of now.

35. Learned Senior Counsel for the appellant submits that for a period of 40 years, the land belonging to the appellant was made part of the Development Scheme and same was treated as such, but now they have been left in lurch so as to declare that no plot can be allotted to their members in the Development Scheme, which has not been appreciated correctly by the learned Single Judge while passing the order dated 12.05.2021.

36. It may be noticed that initially it was the appellant-society challenged the compulsory acquisition of their land, which land was to be made part of the Development Scheme by the Ludhiana Improvement Trust.

On the request of the appellant, the Government released the land of the appellant-Society from compulsory acquisition as far back as in 1981.

37. It was thereafter that the appellant-Society, in order to become part of the Development Scheme, requested the Ludhiana Improvement Trust to include their land in the said scheme, which was done by the Ludhiana Improvement Trust, but the said act resulted into litigation. Though, certain plots were offered to the appellant-Society in view of the fact that the land of the appellant was being utilized in the Development Scheme, but the same was not to the liking of the appellant.

38. In order to finally decide the issue, the Government vide 11.04.2002 set aside the earlier resolution passed by the Ludhiana Improvement Trust to mean that the land belonging to the appellant would no longer be part of the Development Scheme. Once the earlier resolution passed was set aside by resolution dated 11.04.2002, the appellant could not raise a grievance stating therein that fraud has been played in the Development Scheme on the ground that the land of the appellant was being used for development purposes by the Ludhiana Improvement Trust.

39. The resolution of the Government dated 11.04.2002 holding that the land of the appellant would not be part of the Development Scheme remains unchallenged even as of now.

40. Even during the course of hearing, liberty was given to the appellant to challenge the said order, but the same was declined. Hence, once the land of the appellant was not a part of the Development Scheme for the last 24 years, the claim raised by the appellant for execution of the order passed whereby direction was to allot plots to appellant in the Development

Scheme, which was based on the fact that the land of the appellant was to be used by the Ludhiana Improvement Trust in the Development Scheme so as to be allotted 58 plots, cannot be executed in view of the subsequent events whereby the land of the appellant-society stood excluded from the Development Scheme.

41. The orders are to be implemented on the basis of all the facts and not merely on the basis of an order passed at a particular stage by ignoring relevant facts which came into being thereafter, which goes to the root of the claim.

42. Once, for the last 24 years, the land of the appellant is not part of the Development Scheme which is clear from order dated 11.04.2002 passed by the Government, which fact has already been accepted by the appellant-Society as there is no challenge to the said resolution excluding them, the claim for grant of plots in the Development Scheme by the appellant cannot be allowed under any circumstances, and the appreciation of the said fact by the learned Single Judge while passing the order dated 12.05.2021, is perfectly valid and legal.

43. Further, the argument raised by the learned Senior Counsel appearing on behalf of the appellant is that though in the year 2002, the land of the appellant-Society was excluded from the Development Scheme, but the site plan of the said scheme was amended only in the year 2021, hence, the appellant-Society remained part of the Development Scheme even after 2002.

44. It may be noticed that the site plan was changed only because the land belonging to the appellant-Society was excluded from the

Development Scheme and to ensure that the appellant can develop the land as they want to. Hence, the change of the site plan was only a consequential action to the resolution dated 11.04.2002, by which the land of the appellant-society stood released from the Development Scheme to be developed in the manner desired by the appellant-Society. Therefore, the assertion that the appellant-society remained part of the Development Scheme for 40 years, is incorrect and cannot be accepted so as to execute the orders passed by the Consumer Court for allotment of 58 plots within the Development Scheme.

45. Further, it may be noticed that there were other societies as well which were made part of the Development Scheme by including their land. Such societies were also treated in the same manner, as their land was also excluded from the Development Scheme by the Government by setting aside the decision taken by the Ludhiana Improvement Trust. The litigation raised by such societies attained finality, and even the High Court accepted the said exclusion so as to deny any benefit to such societies to be part of the Development Scheme for allotment of plots.

46. The said fact has been conceded by the learned Senior Counsel appearing on behalf of the appellant, but an argument was raised to differentiate the facts between the appellant-Society and the other societies on the ground that the land belonging to the appellant-Society was being used for development of green belt, whereas the land belonging to the other societies was being used for residential purposes.

47. It may be noticed that such a fact will not make any difference, as the only question which is to be answered is whether, after the order dated 11.04.2002 passed by the Government, such societies stood excluded from

the Development Scheme or not. It has already been decided that no such benefit of allotment of plots in the Development Scheme can be given to them. Hence, the utilization of the land belonging to the appellant by the Ludhiana Improvement Trust in a manner different than others in the Development Scheme, when such Society were part of Development Scheme, will not create any distinguishing factor so as to allow the appellant-society to remain part of the Development Scheme for the purpose of claiming residential plots.

48. Further, as mentioned earlier, it may be noticed that when the land of the appellant-Society was made part of the Development Scheme, a total of 58 plots were offered to them. Out of the total 58 plots, the dispute ultimately remained only with respect to 33 plots, and for the remaining plots, there existed no dispute. However, after the decision taken by the Government on 11.04.2002 to exclude the land of the appellant-society from the Development Scheme, even the said 25 plots which had been allotted were withdrawn from the appellant-society.

49. The litigation was raised by such allottees of the appellant-Society on the ground that once plots had been allotted to the members of the appellant-Society under the Scheme, the same could not be withdrawn however, the said litigation has been decided in favour of the Ludhiana Improvement Trust, and the cancellation of such plots allotted to the members of the appellant-society within the Development Scheme has already been upheld up to this Court. The said fact has also gone unrebutted by the learned Senior Counsel for the appellant.

50. Once the said 25 plots which had been allotted to the members of the appellant-Society have been cancelled and such cancellation has been upheld, the claim raised by the appellant-society before the Executing Court for allotment of the remaining 33 plots, which has been declined by the learned Single Judge vide order dated 12.05.2021, cannot be treated as incorrect or discriminatory. Hence, the claim raised for the allotment of 33 plots based upon a judgment of the Consumer Court, by ignoring the subsequent facts, cannot be allowed. Accordingly, the order passed by the learned Single Judge dated 12.05.2021 setting aside the order passed by the Executing Court vide order dated 30.10.2017 to allot 33 plots in the Development Scheme to the appellant-Society in lieu of the land of the appellant-Society being used is justified and has rightly been passed.

51. The present judgment was dictated in the Open Court.

52. No other argument is raised.

53. Present appeal stands dismissed.

54. Pending miscellaneous applications, if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

25-03-2026
Sapna Goyal

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No