
(2014) 05 P&H CK 0427
In the Punjab And Haryana At Chandigarh
Case No : LPA No. 111 of 2012 [O&M]

Greater Mohali Area Development Authority	APPELLANT
Vs	
Anil Kumar	RESPONDENT

Date of Decision : 05-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0427

Hon'ble Judges : Surya Kant, J; Lisa Gill, J

Bench : Division Bench

Advocate : D.V. Sharma, Sr. Advocate and Ms. Shivani Sharma, Advocate for the Appellant; Karamjit Verma, Advocate for Respondent No. 2 and Mr. P.S. Bajwa, Additional AG, Punjab for Respondents No. 3 and 4, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Surya Kant, J.—This Letters Patent Appeal is directed against the order dated 11.05.2011 whereby writ petition preferred by the contesting respondents has been allowed in terms of an earlier decision of this Court in D.S. Laungia & Ors. Vs. The State of Punjab & Ors., CWP No. 13283 of 1991 dated 28.09.1992.

2. Briefly noticed, the facts are that residential Plot Nos. 1275 and 1280 measuring 250 square yards each in Sector 70 were allotted to respondents No. 1 and 2 vide allotment letters dated 05.03.1987 and 18.03.1987 [Annexures P-1 and P-2] respectively. It was stipulated in Clause 3 of the allotment letter that total price of the plot was Rs. 58,125/- but Clause 4 further provided that the said price was subject to variation with reference to the actual measurement of the site "as well as in case of enhancement of compensation by the Court or otherwise.....".

3. The allottees were served with the impugned notices dated 31.07.1991 and 08.07.1991 [P-3 and P-4] calling upon them to deposit 25% of the enhanced allotment price amounting to Rs. 19,675.65 within 30 days. The above stated letter recited that the initial allotment was on provisional basis and that "now the

rates of the plots have been determined by the Government, according to which the outstanding amount is as under...."

4. The aggrieved allottees approached this Court and the allotting authority in its written statement justified enhancement on the ground that meanwhile the compensation amount for the acquired land was enhanced. Unfortunately, the details of the enhancement and the proportionate liability of the allottees were neither mentioned in the written statement nor in the impugned communications.

5. When the matter came up for consideration before the learned Single Judge, counsel for the parties jointly made a statement that the controversy was covered by a Division Bench decision of this Court in D.S. Laungia's case [supra].

6. It was not brought to the notice of learned Single Judge that some-what contrary view was taken by a Division Bench of this Court in Fuljit Kaur Vs. State of Punjab & Ors., CWP No. 4763 of 1992, decided on 21.12.1999 and against which, when the matter was taken to Hon'ble Supreme Court in Civil Appeal No. 5292 of 2004, the judgment in D.S. Laungia's case [supra] was impliedly disapproved while the later view taken in Fuljit Kaur's case [supra] was approved and the appeal was dismissed.

7. In view of the Supreme Court decision in Fuljit Kaur's case [supra], we are of the considered view that the learned Single Judge erroneously followed the decision in D.S. Laungia's case [supra], hence the order under appeal dated 11.05.2011 can not sustain. The same is accordingly set aside and the LPA is allowed.

8. As a consequence to the acceptance of LPA, ordinarily we would have directed the matter to be listed before learned Single Judge for adjudication of the writ petition on merits. We are, however, informed that as per the revised rules, the writ petition is required to be listed before the Division Bench and not before the Single Judge. We are further informed that as per roster, the said writ petition would have to be listed before this Bench only. We, thus, proceed to decide the writ petition also.

9. Adverting to the merits of the issues involved in the writ petition, we find from the impugned notices dated 31.07.1991 and 08.07.1991 [Annexures P-3 and P-4] that no reason whatsoever for enhancement of the allotment price has been assigned by the authority. There is no gain saying that the Authority or its successor are entitled to recover the additional cost incurred by them on account of enhancement of compensation of the acquired land, it is, however, imperative upon them to observe the principles of natural justice to the extent that the allottees before being burdened with such liability, are apprised of the manner in which additional liability is fastened upon them. Such an exercise has not been undertaken in this case.

10. Consequently, we allow the writ petition and while setting aside the impugned notices dated 31.07.1991 and 08.07.1991 [P-3 and P-4], grant liberty

to the appellant--GMADA to issue a self-speaking notice to the writ petitioners preferably along with a Statement of Accounts clarifying the determination of enhanced cost of allotment price. On receipt of such notice, the writ petitioners may submit their objections, if any, within two weeks and on consideration thereof, the GMADA shall be at liberty to pass a speaking order. In case the writ petitioners are aggrieved by the orders passed by the GMADA, they shall be at liberty to challenge the same before an appropriate forum.

11. Disposed of. Dasti.