
(1991) 12 P&H CK 0091
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1405 of 1987

Hans Raj and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 05-12-1991

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 42

Citation : (1992) 101 PLR 625

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : A.C. Jain and Manish Jain, for the Appellant; Sukhbir Singh, for the Respondent

Final Decision : Allowed

Judgement

H.S. Bedi, J.—By the present judgment I propose to dispose of Civil Writ Petition Nos. 1405 of 1987 and 1207 of 1987. The facts of the case are being taken from the former writ petition.

2. The petitioners are Kabaries and are running their businesses in the City of Amritsar. It has been averred in the writ petition that the petitioners or their predecessors-in-interest had settled in Chowk Farid, Amritsar, soon after the partition of the country but were uprooted and forced to settle down in other premises. During the year 1967 the Amritsar Improvement Trust-respondent No. 2 prepared a scheme under which the petitioners were again made to shift their business and, it was only after a protracted legal battle that respondent No. 2 agreed to provide them sites under a scheme known as Truck stand Scheme on G. T. Road, Amritsar. The scheme was duly notified u/s 42 of the Punjab Town Improvement Act on September 30, 1969, and the petitioners were directed to remit a sum of Rs. 1000/- each as earnest money for the allotment of plots and in pursuance thereof, most of the petitioners deposited the amount claimed. The notification referred to above was challenged by certain persons whose land was to be acquired under that scheme (by way of a writ petition) while allowed vide

this Court's judgment dated May 3, 1974, and the scheme in question was quashed. Thereafter, respondent No. 2. reframed the scheme and called it "Development Scheme No. 157" and the said scheme was accordingly notified. Thereafter, respondent No. 2 again wrote letters on August 4, 1971 to the petitioners calling upon them to deposit Rs. 1000/- each as earnest money alongwith the application so that the question of allotment of plots could be considered. By resolution No. 280 dated October 4, 1987 plots were reserved for allotment to the Kabaries including the petitioners. It appears from the pleadings that the plots were in fact allotted to the petitioners and possession handed over to them and the petitioners have, thereafter, constructed their respective shops and started running their business in the said premises. On July 24, 1978, respondent No. 2 issued letters to the petitioners (copy Annexure P-3) vide which it was stated that the said respondent had decided to charge Rs. 250/- per square yard for the plots given to the petitioners and accordingly demanded a sum of Rs. 32,582.50 paise as the price of each plot. A copy of one such letter is Exhibit P/3. The petitioner objected to the price of the land as being excessive and accordingly represented to respondent No. 2. who passed a resolution and made a recommendation vide Annexure P-4 to the State Government to allot plots to the allottees at the rate of Rs. 150/- per square yard. However, while the matter was yet pending, the petitioners received notices dated February 5, 1987 (copy Annexure P-5 to the petition) vide which they were informed that the State Government had accorded its approval to allotment of plots of 133.33 square yard for the Kabaries in the Trucks Stand Scheme through limited auction among 150 persons and accordingly the petitioners and other allottees were directed to take part in the auction to be held in the office of the Improvement Trust on February 20, 1987. The reserves price fixed by respondent No. 2 was Rs. 250/- per square yard. Aggrieved by the proposed auction, the petitioners objected to respondent No. 2 but to no effect. This had led to the filing of the present petition. The primary grievance of the petitioners is that the allotment had been made to the petitioners vide Annexure P-I and they had in fact taken possession of the premises allotted to them and even constructed shops on the said plots, having become wiser by the course of events, the petitioners through their counsel have urged that they were willing to purchase the plots at the rate of Rs. 250/- per square yard as originally fixed by respondent No. 2. They have seriously challenged the notice Annexure P-5 as being wholly arbitrary and contrary to the offer made to the petitioners earlier.

3. The stand of respondent No. 2 in reply is that the petitioners had been given these plots on compassionate grounds and they had no right to claim that they should be given such plots at a fixed price of their choice. It was also pointed out that as per the rules with regard to the allotment of plots the petitioners were not displaced persons and, therefore, not entitled to be treated as such.

4. After hearing counsel for the parties, I am of the view that the writ petitions deserve to succeed. The earnest money was accepted from the petitioners and allotments were made to them and they have in fact, constructed shops on the

said plots. It was no-where the case of the respondents that as per Annexure P-5 the petitioners were required to compete in any auction for securing the plots in question. It will be . seen that the respondents had fixed the price of the plots at Rs. 250/- per square yard and on representations filed by the petitioners, respondent No. 2, itself had recommended to the State Government that the plots be allotted to the petitioner at the rate of Rs. 150/- per square yard. At this stage, the respondents apparently took a volte face and decided that the plots in question would be sold by limited auction. The stand of respondent No. 2 that the allotment was made to the petitioners on compassionate grounds is, indeed, surprising. Respondent No. 2 had itself recommended to the State Government to fix the price of the plots at Rs. 150/- per square yard and thereafter in deciding to auction them is indeed a strange manifestation of the compassion shown to the petitioners. I am also of the view that the petitioners had purchased plots on a fixed price as per various resolutions/recommendations made by respondents No. 2 and as such the action of respondent No. 2 in proposing to auction the plots is resolutely arbitrary. The petitioners having deposited the earnest money and thereafter having secured the possession of the plots were entitled to say that they were liable to pay only a fixed amount towards the price of the plot. Respondent No. 2 had itself taken a decision to allot plots at Rs 250/- per square yard Annexure P.3 and this offer had been communicated to the petitioners and as such no unilateral change could be made in the price determined.

5. For the reasons recorded above, the present writ petition is allowed and Annexure P-5 dated February 5, 1987 is quashed. However, the petitioners will pay Rs. 250/- per square yard as the price of the plot as undertaken by them. The total price will be paid in Lump-sum, within three months from today with interest at the rate of 12% per annum on the amounts due from the petitioners from the date of allotment of the plots up to the date of actual payment. In the facts and circumstances of the case, however, there will be no order as to costs.