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(2014) 11 P&H CK 0174

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. Nos. 24857 of 2012, 8985, 8895, 12099, 118, 12476, 411, 433, 458, 470, 479, 2717, 281 of 2013, 8158, 6549, 11414 and 12919 of 2014

IMT Industrial Association and Others — APPELLANT

Vs

Haryana State Industrial and Infrastructure Development Corporation and Others — RESPONDENT

Date of Decision : 11-11-2014

Acts Referred:

Constitution of India, 1950 — Article 12, 14
Land Acquisition Act, 1894 — Section 18

Citation : (2015) 2 SCT 140

Hon'ble Judges : Sneh Prashar, J;Muttaci Jeyapaul, J

Bench : Division Bench

Advocate : Anupam Gupta, Puneet Bali, Senior Advocates and Tushar Sharma, Advocates for the Appellant; Hawa Singh Hooda, Advocate General and Kamal Sehgal, Advocates for the Respondent

Judgement

Muttaci Jeyapaul, J.—All these writ petitions challenge the methodology adopted by Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) (for short ''Corporation'') in calculating the additional price to be paid by the allottees of various categories pursuant to the enhancement of compensation for the lands acquired for the purpose of allotment. Of course, few writ petitions have brought in certain additional issues as well. As common issues have broadly arisen for determination in these writ petitions, we have proposed to dispose of these writ petitions by a common judgement. The admitted facts:-

a) The Government of Haryana acquired land measuring 256 acre-3 kanal-17 marla vide award dated 28.3.1997. 1490 acre-2 kanal-6 marla vide award dated 3.4.1997 and 2 acre-5 kanal-16 marla vide award dated 11.8.1998 for the purpose of developing Phase I of Industrial Model Town (for short ''IMT''), Manesar by the Corporation. It has been developed as an integrated complex for industrial, residential, commercial, institutional and other permissible uses.

References had been made by the land owners invoking the provision under Section 18 of the Land Acquisition Act, 1894 praying for enhancement of compensation. The reference Court at Gurgaon vide orders dated 5.2.2003 and 12.2.2004 fixed the market value of Block A land falling within 500 yards of the National Highway (NH-8) at Rs. 6,89,333/- per acre against the value of Rs. 4,13,600/- per acre fixed by the Land Acquisition Collector (LAC). It is to be noted that the market value of land comprised in Block B was not at all increased by the reference Court. The land owners chose to challenge the orders of the reference Court by filing Regular First Appeal before this Court. It may also be noted that the Corporation did not challenge the award passed by the reference Court. By a common order dated 19.5.2006, this Court fixed the market value of the acquired land at Rs. 15 lac per acre alongwith all statutory benefits. It goes without saying that statutory benefits include interest @ 12% from the date of notification till the date of award in addition to 30% enhanced cost as solatium plus interest at 9% on the amounts so payable for one year and thereafter interest @ 15% on the amount due till the final payment. Aggrieved by the above orders passed by this Court in a batch of writ petitions, the Corporation and the land owners filed Special Leave Petitions (for short ''SLPs'') before the Hon''ble Supreme Court. The batch of SLPs were disposed of by the Hon''ble Supreme Court on 17.8.2010 and enhanced the compensation for the entire land acquired at Rs. 20 lac per acre alongwith all statutory benefits. The story further goes on that Review Petitions were filed by the Corporation. A sum of Rs. 872 crores was deposited by the Corporation in terms of the interim orders passed therein. But ultimately, the Review Petitions were dismissed on 2.7.2012 with cost of Rs. 25,000/- per case. A direction also was issued by the Hon''ble Supreme Court that entire enhanced compensation should be deposited at the rate of Rs. 20 lac per acre alongwith statutory benefits within a period of 3 months. The fact remains that the Corporation has deposited Rs. 1325.39 crores towards the total enhanced portion of compensation. The Corporation issued a final notice vide letter dated 24.9.2012 demanding payment of Rs. 3552/- per sq.mtr. towards additional price to be paid by allottees on account of the final compensation arrived at by the Hon''ble Supreme Court and the same has been sought to be quashed in these writ petitions contending that such a demand has been made by the Corporation arbitrarily, illegally, unjustly, unreasonably, irrationally and unconscionably, contrary to the principle of "No Profit, No Loss" on the basis of which respondent No. 2-Corporation operates.

2. The common pleadings of the writ petitioners:-

a) The respondent-Corporation is operating its activities of promoting the industrial estates on ''No Profit, No Loss'' basis as declared in their annual statement of accounts. In other words, it is not carrying on any of its activities for profit. Enhanced demand from the allottees should have been made only after duly adjusting the realizations made by the Corporation out of this venture. Though an extent of 1736 acre-6 kanal-4 marla was acquired, the details of tentative price analysis would reflect the total area including the saleable at 1720

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acres. There was no explanation from the respondent-Corporation as to what happened to the remaining 16 acres of land. The respondent-Corporation failed to provide details of parameters followed in fixing the tentative price and also the realization of the remaining area. The respondent-Corporation sold some industrial plots for speculative price and recovered a sum of Rs. 486.60 crores. That apart, a sum of Rs. 45.99 cores had been collected towards penalty imposed on the allottees concerned for not constructing the building in time. A sum of Rs. 351.52 crores had also been collected by the respondent-Corporation out of the sale of commercial area in Phase I, IMT, Manesar. The said amounts were not adjusted towards additional price fixed on account of enhanced compensation awarded by the respective Courts. In other words, the respondent-Corporation had already recovered much more than the actual cost incurred by it towards the project.

b) No interest can be demanded by the respondent-Corporation for the period intervening between deposit of enhanced compensation and the date of issue of notice as per the settled position of law by this Court.

c) The petitioners in CWP No. 12476 of 2013 have contended that the petitioners had already paid the amount immediately after the receipt of notice of demand from the respondent-Corporation. Therefore, the impugned notice was illegal, inasmuch as the amount already paid was not given credit to.

d) The petitioners in CWP No. 8895 of 2013 have contended that the petitioners were entitled to 20% rebate in the tentative price fixed by the respondent-Corporation, as the petitioners had started commercial production within the stipulated period of 3 years. But 20% rebate was released only after a delay of 6 years. Therefore, the petitioners are entitled to interest on the amount of Rs. 48,60,000/- paid towards 20% rebate for 6 long years. It is further contended that the petitioners are entitled to 20% rebate on the additional price of the plot now calculated and fixed after the enhancement in compensation.

e) The petitioners in CWP No. 11414 of 2014 and CWP No. 12919 of 2014 have strenuously contended that there was no clause in regular letter of allotment obligating the petitioners to make payment of any additional price of plot in the event of enhancement in compensation. Therefore, it is pleaded that the notice issued without any clause in the Regular Letter of Allotment demanding additional price of the plot is illegal.

f) The petitioners in CWP No. 8985 of 2013 would set up a plea that they had purchased the property in the auction conducted by the respondent-Corporation and, therefore, they were not bound to pay any additional price of plot. The impugned notice has been issued arbitrarily, it was contended.

g) The writ petitioners in CWP No. 12099 of 2013 would contend that the entire demand made by the respondent-Corporation was met by the petitioners and therefore, the demand notice was illegal.

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3. (a) In the written statement filed by respondents No. 2 & 3, it is contended that as per Clause 5 of Regular Letter of Allotment and Clause 1 of the Conveyance Deed executed by the respective petitioners, they being allottees are bound to pay additional price of the plot as a consequence of enhancement in compensation awarded by the Courts. The petitioners are bound to honour the terms of contract entered into between them and the respondent-Corporation. There is virtually no compulsion on anyone to enter into the above contract binding themselves to pay the additional price on account of the enhanced compensation awarded by the Courts.

(b) The total enhanced compensation amount payable to the land owners has been apportioned proportionately on the total saleable area of Phase I, Manesar, Roads, green belts, open area, public utilities, water works, electrical sub-stations, site for solid waste management, office complexes, public places, club and golf course and common parking area, etc. fall under the category of non-saleable area. The respondent-Corporation has borne the burden of enhanced compensation for the plots allotted through auction/bidding route. Wherever the respondent-Corporation has disposed of any site against the price, such allottees partake the impact of enhancement on a pro-rata basis. The demand of additional price made by the respondent-Corporation is fair and reasonable. A discrepancy between the properties acquired and the properties taken up for development had arisen on account of the litigations in the Court. The calculation chart showing the additional price arrived at is found in Annexure R-2. After the disposal of the writ petition in CWP No. 2964 of 1996, 2965 of 1996 and 7087 of 1995, the saleable area has been slightly revised to 1066.96 acres.

(c) The respondent-Corporation performed twin functions of:

i) Development banker by way of providing financial assistance in the shape of loans/equity.

ii) Infrastructure development activities in the State of Haryana as a Nodal agency of the Government of Haryana.

(d) The accounts of the respondent-Corporation are duly audited by the statutory Auditors appointed by Government of India as well as the Comptroller and Auditor General of India on an year to year basis. The activities as a development banker are carried out on commercial terms. The Corporation pays income/corporate tax on the profits generated from such activities as per the laws of the land. As regards development activities, the Corporation functions on ''No Profit, No Loss'' basis with an objective of over-all growth of industrial activities. The transfer fee, leasing fee, extension fee, etc. are levied by the Corporation as a measure of administering the industrial estates. The surplus amount earned by the Corporation levied on various kind of fees/sale of commercial areas is ploughed back in meeting investment requirement for over-arching infrastructure facilities. The respondent-Corporation also has undertaken certain projects such as construction of water supply channel to meet the

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growing demand of water in Gurgaon-Manesar area, Kundli-Manesar-Palwal Expressway, Mass Rapid Transport System, Metro Project Gurgaon-Faridabad and Railway Siding. These infrastructural development would largely benefit the petitioners. Therefore, the respondent-Corporation has sought for dismissal of the writ petitions.

4. The following issues have arisen for determination in these writ petitions:-

i) Whether the Estate Management Policy, 2011 would apply retrospectively.

ii) Whether the additional price should be fixed proportionately to the original allotment price fixed and collected from the respective allottees.

iii) Whether the commercial plots sold out for lucrative price be adjusted towards additional compensation paid by the Corporation in order to reduce the burden of the allottees. iv) Whether the saleable area determined by the respondent-Corporation for the purpose of making a demand of additional price on account of enhancement in compensation is sustainable.

v) Whether interest can be levied by the Corporation for the intervening period between the date of deposit of additional compensation with interest and the date of demand made by the Corporation.

vi) Whether the petitioners in CWP No. 8895 of 2013 are entitled to 20% rebate even on the additional price now fixed by the Corporation due to enhancement of compensation.

vii) Whether the petitioners in CWP No. 8895 of 2013 are entitled to interest on 20% rebate belatedly disbursed from the date when they were entitled to receive it to the date when the rebate was actually disbursed.

viii) Whether the Corporation is entitled to make a demand of the additional price with interest from the petitioners in CWP No. 1414 of 2014 and CWP No. 12919 of 2014 as there was no clause found in the Letter of Allotment issued to the petitioners.

ix) Whether the petitioners in CWP No. 8985 of 2013 who were allotted with the plot in the auction held by the Corporation are also bound to pay the additional price fixed by the Corporation.

x) Whether the petitioners in CWP No. 12476 of 2013 and CWP No. 12099 of 2013 are liable to pay the additional price with interest already paid by them.

Issue No. (i)

5. The Estate Management Policy, 2011 reads as follows:-

"Industrial Plots:

Initial price of Industrial Plots in a Industrial Estate developed by HSIIDC is fixed as per the "Performa of Fixation of price for Industrial Plots". (EMP-2011, pg. 10)

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Residential Plots:

Allotment rate of residential plots will be 20% higher than the prevailing price of industrial plots in that Estate. In case of a corner plot, a preferential price of 10% over and above the normal rate for residential plots will be payable.

Group Housing Plots:

Allotment rate for group housing plots will be @ 40% higher than the rate of allotment of Industrial Plots in that Estate.

Institutional Plots:

Allotment price of Institutional plots will be as determined as under:

1. In case of allotment of Institutional plots, the allotment price would be @ 1.25 times the rate of Industrial plots in that particular Estate.

2. Where the allotment is being made through auction/limited bidding procedure, reserve price will be fixed on the basis of the latest average realization of Commercial sites in that Estate.

Commercial Plots:

To be allotted through open auction or by inviting sealed bids.

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To be allotted through open auction or by inviting sealed bids.

Fixation of Reserve Price:

1. For FAR upto 175%, the reserve price of a commercial site will be three times the price of Industrial plot in the respective estate in the 1st instance. For every additional FAR of 50% of part thereof, the reserve price will be doubled/increased proportionately.

2. The reserve price for a subsequent auction will be fixed on the basis of average realization received of the previous auction. However, in cases where it is observed, on the basis of market survey, that there is substantial difference between the reserve price and the market price, the reserve price will be fixed keeping in view the market price in the area.

3. Wherever commercial sites are put to auction and the auction does not succeed on account of higher reserve price during a financial year, the Corporation may reduce the reserve price by 20% for the next auction. In case no bid is received after such 20% reduction, the matter will be placed before the BoD/HSIIDC for decision."

6. Learned senior counsel appearing for the writ petitioners would vehemently contend that though the industrial plots were allotted way-back in the year 1999, the Estate Management Policy, 2011 as regards the fixing of price in every

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industrial estate of HSIIDC has been made applicable to those allottees also.

7. Learned Advocate General, Haryana for the respondent-Corporation would submit referring to Clause 3 of the Estate Management Policy, 2011 that such a policy formulated by the Corporation would apply only prospectively.

8. In our considered view, as there is a specific clause in the Estate Management Policy, 2011 that it would apply only prospectively, the question of giving effect to such a policy formulated retrospectively does not arise. Even if we apply the said Policy, it only speaks of fixation of the initial price of the industrial plots first and the residential plots with 20% increase in price from the industrial plots and Group Housing plots with increase of 40% from the industrial plots, the institutional plots with increase of 1.25 times the rate of industrial plots and commercial plots allotted through open auction. The reserve price would be three times the price of industrial plot.

9. We are of the considered view that as per the scheme of Estate Management Policy, 2011, the pricing policy contemplated therein would not apply retrospectively to the plots allotted way-back in the year 1999-2000 and 2000-2001. Even otherwise, the Estate Management Policy, 2011 speaks of only the mode of fixing the initial price of various categories of plots. The initial price fixed on various circumstances which we have proposed to enumerate in the following paragraphs cannot be taken as a base to fix the additional price on enhancement of compensation fixed by the Courts. Therefore, we have no hesitation to hold that the Estate Management Policy, 2011 is not applicable to the plots allotted to the petitioners herein.

Issues No. (ii), (iii) and (iv)

10. The Corporation has apportioned the total enhanced compensation amount proportionately on the total saleable area of Phase I, IMT, Manesar.

11. It is contended by learned counsel for the writ petitioners that additional price on the basis of enhanced compensation shall be distributed upon various categories in proportion to their allotment price. 20 plots in the industrial area had been carved out from public utility and having converted the same as commercial plots, the Corporation had auctioned them. The total sale proceeds received through such auction by the Corporation should also have been pooled to make payment of additional compensation. The Corporation cannot now arbitrarily fix additional price without giving weightage to the original price fixed according to the category of allottees. The saleable area earmarked by the Corporation is simply arbitrary. The guest house and the Golf Club are being used by the outsiders. But unfortunately, the area under occupation of the guest house and the Golf Club have been earmarked as non-saleable area. The Club was infact leased out by the Corporation on an yearly lease of Rs. 52 lacs. The area from where lucrative income is derived by the Corporation has been conveniently kept out of the saleable area. The allottees who were made to believe that their additional burden would be proportioned to the allotment price

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of their land cannot be directed to pay an additional price fixed by the Corporation at its whims and fancies. Therefore, it is their submission that a Committee headed by a retired Judge of High Court should be constituted for the purpose of earmarking the saleable area from that of non-saleable area and fixing the additional price payable by each allottee taking into account the lucrative income derived by the Corporation by auctioning certain plots for commercial purposes.

12. Learned Advocate General, Haryana would submit that the initial price fixed tentatively factoring in certain circumstances cannot be taken as a base to fix the additional price due to enhancement of compensation. Drawing the attention of this Court to Clause 5 of the Regular Letter of Allotment and Clause 1 of the Conveyance Deed, he would submit that the allottees had unambiguously committed themselves to pay the additional price determined by the Corporation on enhancement of compensation by the Courts. The allottees cannot now back out from their obligation under the contract then entered into with the Corporation. The Corporation has embarked upon various infrastructure development for the convenience of the allottees, spending huge amount from its coffer. The Corporation has spent more than Rs. 20 crores for the purpose of developing the Golf ground and the Golf Club. But, so far it has received only income of just about Rs. 5 crores from the Club. It is his further submission that the guest house and the Golf Club are being used by the allottees as well. Fixation of additional price proportionate to the allotment price would adversely affect the allottees of residential plots. Therefore, it is his submission that the Corporation has rightly fixed the additional price proportionate to the total saleable area.

13. To determine the above issues involved in these writ petitions, it is appropriate to incorporate herein below a fresh calculation chart dated 30.10.2013 showing the details of land of Phase I for fixing the additional price submitted by HSIIDC.

Tables showing the detail of land for Phase-I for enhancement purpose

14. It is found that the Corporation has fairly included the area under parking, i.e., 28.79 acres around commercial towers in Sector 2 in the saleable area for the purpose of fixing the additional price. The area under commercial use and convenient shopping in Sector 1, the total parking area and convenience shopping in Sector 3, 4, 5, 6 and 7, budget hotel/hotel site in Sector 5, school premises in Sector 1, religious site with parking in Sector 1, Jan Nayak Heritage complex, 50% of the area in occupation of the guest house in Sector 1,5.26 acres of the area to be planned later, 1.32 acres of open area except the roads, other open space and green belt have been very fairly included in the saleable area by the Corporation in order to reduce the burden of the allottees.

15. The non-saleable area includes the land under roads, green belts/golf course, certain open areas, public utilities, water works, electrical sub-stations, site for

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solid waste management, office complex, club, common parking area, etc. as per the approved layout of the Industrial Model Township, Phase I.

16. In our considered view, the saleable area has been rightly demarcated and fixed by the Corporation as reflected in the fresh calculation chart produced before us.

17. The proportionate amount of enhanced compensation has also been apportioned to the area under commercial and/or any other sites that have been disposed of by the Corporation through auction/bidding route. It is found that the Corporation had in-fact allotted such plots in public auction/bidding based on the highest bid. Therefore, a provision had been introduced in such allotments that no enhancement in price was payable by the bidder in future. Therefore, the Corporation has infact shouldered the burden of the proportionate amount of compensation to be payable by allottees as well. In other words, the burden of enhanced compensation in respect of the commercial site auctioned by the Corporation has not been passed on to the other allottees. It is found that wherever the Corporation has disposed of any plot against a price, such allottees partake the impact of enhancement on a pro-rata basis and the same is shouldered by the Corporation.

18. In the Regular Letter of Allotment, it has been stipulated that the plot shall continue to belong to the HSIIDC until the entire consideration together with interest and other amount, if any, due to the HSIIDC is paid.

19. Coming to the plea of the writ petitioners that the additional price on account of enhanced compensation shall be distributed upon the categories in proportion to their allotment price for land, we find that HSIIDC had fixed the allotment price of industrial plots in the year 1999 at Rs. 1473/- per sq.mtr. Whereas, residential plots had been allotted by the Corporation in the year 2000-01 at Rs. 1800/- per sq.mtr. The residential plots as projected by the writ petitioners were allotted 20% higher than the tentative price fixed for industrial plots. The respondent-Corporation brought to the notice that the rate of allotment of plots was increased from time to time adding holding cost of 15% per annum. But it is to be noted that the enhanced compensation is calculated and demanded at the same rate from all the categories of allottees.

20. In the above factual scenario if 15% holding cost per annum is added on the industrial plots allotted in the year 1999, the rate of industrial plots would come around Rs. 1800/- per sq.mtr. in the year 2000-2001. Therefore, the initial tentative price fixed for the residential plots allotted in the year 2000-01 @ Rs. 1984/- per sq.mtr. cannot be termed as a rate fixed over and above the allotment rate of the industrial plots. In other words, the residential plots also have been allotted by the Corporation in the year 2000- 01 almost on the same rate fixed after factoring in the prevailing rate.

21. It is also effectively submitted by learned Advocate General, Haryana that the tentative price of the industrial plots were fixed at Rs. 1473/- per sq.mtr. in

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the year 1999 in order to encourage large scale sale of industrial plots by providing suitable incentives. No occasion had arisen for the Corporation to sell residential plots on concessional rates, as there was adequate demand therefor from the very beginning. We are of the considered view that the allotment made by the Corporation was not based on any negotiated price. In the conveyance deed there is a clause that the transferee shall pay to the transferor such additional price of plot as is determined by the transferor as a consequence of the enhancement in compensation of land awarded by the Courts of competent jurisdiction. The allottees had agreed to pay the enhanced cost as determined by the Corporation.

22. Neither the Regular Letter of Allotment nor the Conveyance Deed does contemplate fixation of final price proportionately to the original allotment price fixed to various categories of allottees. The allottees of industrial plots do enjoy the same convenience and facilities extended generously by the Corporation by creating phenomenal infrastructure. Infact the Corporation would not suffer any monetary loss in case of fixation of additional price in proportion to the allotment price. It is only the allottees of residential plots who would be ultimately at the receiving end. In our view, the Corporation has taken a policy decision to fix the additional price in the aftermath of enhancement of compensation in proportion to the plot allotted. Infact, the Hon''ble Supreme Court has fixed same price for the entire chunk of land acquired and made available to the Corporation for allotment to the writ petitioners and others. No portion of the property acquired was differently valued by the Hon''ble Supreme Court. When no preferential treatment to the property acquired in the manner of valuation of the property was given by the Hon''ble Supreme Court, the Corporation cannot give preferential treatment to the allottees of industrial plots. In our considered view, it would be discriminatory if different pricing formula is adopted in accordance with the original tentative price originally fixed by the Corporation to suit the then auction.

23. Learned senior counsel appearing for the petitioners has referred to the judgement of the Hon''ble Supreme Court in M.D., H.S.I.D.C. and Others Vs. Hari Om Enterprises and Another, , wherein it has been held as under:-

"21. Allotment of industrial plot keeping in view the object and purport for which the Corporation had been constituted and incorporated must be held to be a governmental function. In a case of this nature where the aim and object of the Corporation as also the State is to encourage industrialization while adjusting equity, the purpose for which the scheme was made would be a relevant factor. Only because allotment of land has been effected through a letter, the same by itself does not make such allotment and/or the provisions contained therein to be matters within "private law domain" as contradistinguished from "public law domain". The State exercises deep and pervasive control over the activities of the Corporation.

22. The parties themselves agreed that despite the fact that the Corporation is a

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juristic person, an appeal against its decision shall lie to the Financial Commission of the State, within the meaning of Article 12 of the Constitution of India. Its action, therefore, must be fair and reasonable so as to sub-serve the requirements of Article 14 of the Constitution."

24. We do not find any unfair or discriminatory treatment meted out to any of the allottees by the respondent-Corporation. The fresh calculation chart produced by the HSIIDC would disclose that the Corporation was infact very generous in including certain areas commonly utilized by the allottees within the category of saleable areas so as to give maximum monetary benefit to the allottees. Though no monetary loss would occur to the Corporation, it has laboured much to distribute proportionately the financial burden that has accrued on account of the enhanced compensation granted by the Courts. We do not find any fault with the realistic approach of the respondent-Corporation.

25. There is a serious allegation that the respondent-Corporation had virtually given up its ''No Profit, No Loss'' policy. It has been demonstrated by the respondent-Corporation that it performs dual functions. It functions as a developmental banker by providing financial assistance in the shape of loans/ equity. It also develops industrial estate and creates industrial infrastructure in the State of Haryana. It has been fairly admitted by the 2nd respondent-Corporation that the activities as a developmental banker are carried out on commercial terms. They are paying income/corporate tax on the profits generated from such activities. Of course, they would also admit that the development of industrial estates are carried out on the concept of ''No Profit, No loss'' principle.

26. It has been brought to the notice of this Court that the surplus earned by the Corporation from the sale of commercial area is ploughed back in meeting investment requirements for creation of over-arching infrastructure. It is also rightly contended by the 2nd respondent that the Corporation has utilized some of the surplus funds for meeting the post-cost of acquisition of land for the KMP Expressway, NCR Water Supply Channel, Metro Rail Links, etc.

27. The allegation made by some of the allottees that the plots earmarked for public purpose in Phase I, IMT, Manesar had been converted as commercial plots and auctioned for fancy price by the Corporation may be subject of litigation before proper forum. We are concerned with only the challenge made to the methodology adopted by the Corporation in fixing the additional price for the plots allotted to the various categories of allottees.

28. It is submitted by the learned counsel appearing for the writ petitioners that the Corporation is earning huge profit from out of the Manesar Club and Golf club. But, it is demonstrated by the Corporation that Manesar Club is a Society registered under the Societies Registration Act. It has been infact leased out at a nominal lease amount of Rs. 1 lac per annum for a period of 30 years. Similarly, the Golf Club is also found to be a Registered Society. Majority of the allottees

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are found to be the members of those Clubs. Anyway, the issues relating to the administration of those clubs are matters to be chalked out before different forum.

29. The respondent-Corporation would fairly admit that the Golf Club has been leased out to M/s. Escorts Hotels and Resorts Pvt. Ltd. at an annual lease rental of Rs. 52.52 lacs with annual increase of 8% for a period of 10 years with a provision of further extension of 5 years. The fund created by the Club is after all going to be used for the mutual benefits of the Club members in accordance with its objectives. Learned Advocate General, Haryana would bring to the notice of this Court that infact more than 20 crores have been spent to develop the Golf Club. It had received so far only a sum of Rs. 5.97 crores as profit from the Club. Therefore, it is not as if the Corporation is reaping phenomenal profit from the Golf Club. Further, in our view, the greenery required for the allottees cannot be efficiently maintained if such a Golf Club is not maintained. Accordingly, the above issues are answered in favour of respondents.

Issue No. (v)

30. A co-ordinate Bench of this Court in Charanjit Bajaj v. State of Haryana, CWP No. 1270 of 1985 decided on 8.7.1986, has held as follows:-

"6. After giving out thoughtful consideration to the entire matter, we find merit in the submission of the learned counsel for the petitioner. The interest is being charged for the period intervening between deposit of compensation and the issue of notices to the allottees. Mr. Rajinder Singh, learned counsel, could not convince us as to on what basis interest was being charged from the plot-holders. The recovery of the enhanced price on the basis of payment of enhanced compensation has to be made by HUDA. If the authority does not take prompt action in making recovery or in depositing the enhanced amount of compensation, then the plot-holders cannot be made to suffer for that lapse. Further, there does not seem to be any basis for charging interest on the amount deposited for paying compensation. The incidence that has to fall on the plot holders is of the amount of enhanced compensation paid by HUDA. By charging interest on such amount, HUDA only wishes to make profit as not amount of interest is payable by HUDA after the deposit of the amount of enhanced compensation. In this view of the matter the explanation furnished by HUDA in charging interest is not tenable and the petitioners cannot be made liable to pay interest for the period intervening between deposit of compensation and the issue of notices."

31. In the instant case, the allottees have infact agreed to pay the additional price of the plot in lump-sum within 30 days from the date of demand notice failing which a penal interest of 18% per annum shall be charged from the date of notice as per Clause 5 of the Regular Letter of Allotment. Such a clause is also found in Clause 1 of the Conveyance Deed as well. Original notice of demand was made only on 11.12.2007 and thereafter on 15.6.2009 directing the allottees to

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pay the enhanced compensation with interest and statutory benefits paid by the Corporation. But curiously interest has been claimed from the year 2004, the year in which the enhanced compensation with interest was paid by the Corporation.

32. Clause 5 of the Regular Letter of Allotment and Clause 1 of the Conveyance Deed clearly contemplate the obligation on the part of the allottees to pay interest only on making a demand in writing. Further, on receipt of these demand notices, many allottees had rushed to the Corporation and paid the amount as demanded. If the Corporation had raised the demand in terms of those clauses, some of the allottees would have discharged their liability with interest way-back in the year 2004 itself. Therefore, in our considered view, the Corporation is not entitled to claim any interest for the additional compensation with interest paid from the year 2004 to 11.12.2007, the date on which the first demand notice was issued.

33. It was contended by the counsel appearing for the petitioners that even those notices were withdrawn by the Corporation and therefore, they are liable to pay interest only from 24.9.2012, the date on which the fresh impugned notice was issued. Such a fallacious argument is not acceptable to this Court. The allottees have been put on notice as to their liability to pay the enhanced portion of the compensation with interest as early as on 11.12.2007. The said notice was withdrawn only on certain technical grounds. Therefore, it is affirmatively held that allottees are bound to pay interest as claimed by the respondent-Corporation from 11.12.2007.

Issue No. (vi) & (vii)

34. It was submitted by learned senior counsel for the petitioners in CWP No. 8895 of 2013 that on account of commencement of production in the industry within 3 years as stipulated by the Corporation, the writ petitioners were entitled to 20% rebate. But it was belatedly disbursed after a delay of 6 years. Therefore, the writ petitioners are entitled to claim interest for the said period. It was also contended that the same rebate of 20% shall be given in the additional price fixed on enhancement of compensation.

35. Though the rebate has been announced for early commencement of business and production in the industry, the procedure to release 20% of rebate had not been formulated by the Corporation. Further, the Occupation Certificate as required by the Corporation for releasing 20% rebate was not at all produced by the writ petitioners even after a lapse of 6 years in spite of insisting for production of such Occupation Certificate by the Corporation. It has been demonstrated that the writ petitioners in CWP No. 8895 of 2013 had commenced production even without obtaining the Occupation Certificate. Infact, in its magnanimity the Corporation chose to waive later on the production of Occupation Certificate and was pleased to release 20% rebate. Therefore, the above writ petitioners are not entitled to receive any interest for the alleged

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period of delay occasioned in disbursing the rebate.

36. After all 20% rebate has been announced at the initial stage in order to encourage the industrialists to commence production after putting up the industrial shed. Further, the Corporation was very particular that the allottees do not alienate the industrial plot allotted and walk away from the premises. Such a rebate given at the initial stage for the aforesaid purposes cannot at all be reckoned for the purpose of determining the final price after commencement of compensation made by the Courts.

Issue No. (viii)

37. It was contended by learned counsel appearing for the petitioners in CWP No. 1414 of 2014 and CWP No. 12919 of 2014 that the petitioners are not liable to pay additional price for the plots allotted to them, inasmuch as there was no agreement to pay additional price in the letter of allotment issued to them.

38. We are surprised to find that the Conveyance Deed executed by and between the Corporation and the allottees has not been produced by the petitioners in this case. It may be a case where the petitioners had not paid the 100% tentative price as fixed in the letter of allotment. Even otherwise, the letter of allotment reads that the price fixed in the letter of allotment was only tentative. Therefore, the petitioners in CWP No. 1414 of 2014 and CWP No. 12919 of 2014 cannot claim exemption from their liability to pay additional price fixed by the Corporation.

Issue No. (ix)

39. It is contended by learned counsel appearing for the petitioners in CWP No. 8985 of 2013 that inasmuch as the other auction purchasers had been exempted from paying the additional price, the demand notice issued to the petitioners by the Corporation would amount to discrimination.

40. The plot was re-allotted to the petitioners in the auction held by the Corporation. Clause 6 of the Agreement of Transfer executed by and between the parties clearly adumbrate the liability of the petitioners to pay the additional price. Therefore, we do not find any merit in the above submission made by learned counsel appearing for the petitioners in CWP No. 8985 of 2013.

Issue No. (x)

41. Learned counsel appearing for the petitioners in CWP No. 12476 of 2013 and CWP No. 12099 of 2013 would submit that the amount demanded by the Corporation was already paid.

42. Learned Advocate General, Haryana would submit that if such amount has already been paid with interest, the Corporation would definitely give credit to the amount paid by them. Infact, in the demand notice issued by the Corporation, it has been categorically mentioned "the amount, if any, already paid by the allottee on account of enhanced cost including interest shall be

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adjusted against the total dues mentioned above". The amount, if any, paid by these writ petitioners shall be given credit to by the Corporation in view of their commitment made as above in the demand notice.

43. In the result, the writ petitioners are directed to pay the additional price fixed by the Corporation in terms of the fresh calculation chart dated 30.10.2013 produced before this Court and referred to above without adding interest from the year 2004 to 11.12.2007, but with interest as fixed by the Corporation from 12.12.2007. It is further directed that the Corporation shall give credit to the final price with interest already paid by the allottees concerned. With the above direction, all the writ petitions stand dismissed.

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