
(2015) 05 P&H CK 0480
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6526 of 2015

Jagdeep Singh Deol

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 25-05-2015

Acts Referred:

Citation : (2015) 179 PLR 768

Hon'ble Judges : Ajay Kumar Mittal, J; Rekha Mittal, J

Bench : Division Bench

Advocate : Ashish Aggarwal, Senior Advocate and Kartik Gupta, for the Appellant; D.S. Mann, A.A.G., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J—The petitioner seeks quashing of impugned orders dated 7.11.2014, 21.6.2011, 17.2.2010 and 14.12.2009, Annexures P.13, P.6, P.4 and P.3 passed by respondent Nos. 1 to 3 respectively, cancelling the allotment of plot No. 5175 measuring 766.66 square yards at Urban Estate, Dugri Road, Phase II, Ludhiana. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. In the year 2004, the petitioner had applied for allotment of a plot in the general category with the Punjab Urban Planning and Development Authority [now Greater Ludhiana Area Development Authority, Ludhiana (GLADA)]. Vide allotment letter dated 5.8.2004, the petitioner was allotted Plot No. 2298 in Urban Estate, Ludhiana measuring 300 square yards. Due to his family circumstances, the petitioner sold the said plot in the year 2005 and the same was transferred in the name of purchasers Madhu Sudan and Gurpreet Singh. The subsequent instalments were paid by the said purchasers. Thereafter, the Punjab Urban Planning and Development Authority, Ludhiana announced a scheme for allotment of 247 free hold residential plots at Urban Estate, Dugri Road, Ludhiana on 18.9.2006, Annexure P.1. The petitioner applied for a residential plot in the above scheme under the category of Riot Affected and Terrorist Affected families. The petitioner

submitted the requisite affidavit. Vide allotment letter dated 18.6.2007, Annexure P.2, the petitioner was allotted Plot No. 5175, Phase 11, Urban Estate, Dugri Road, Ludhiana measuring 766.66 square yards. However, a complaint was filed against the petitioner by one Inderjit Singh who was next in the line of allotment of a plot alleging that the petitioner was not entitled to allotment as he had already been allotted a plot in the year 2004 in the general category. The Estate Officer - respondent No. 3 without affording an opportunity of hearing to the petitioner passed order dated 14.12.2009, Annexure P.3 cancelling the allotment of the plot in question on the ground that the petitioner had violated condition No. 4 mentioned at page 8 of the brochure. Aggrieved by the order, the petitioner filed appeal before the appellate authority - respondent No. 2. Vide order dated 17.2.2010, Annexure P.4, the appeal was dismissed. The petitioner filed revision petition before respondent No. 1. It was pleaded that the petitioner had not availed the benefit of allotment of a plot under the reserved category of Riot affected and Terrorist affected families prior to the present allotment. He had not violated condition No. 4 as he had only applied under the general category for a, 300 square yards plot in the year 2004 which he had already sold in the year 2005. Respondent No. 1 vide order dated 21.6.2011, Annexure P.6, in spite of holding that the petitioner was eligible for the allotment of the plot in question dismissed the revision petition on the ground that since after the allotment of the plot in question, the petitioner was allotted another plot at Patiala i.e. Plot No. D-111, Omaxe City, Patiala on 5.2.2008 under the reserved category of Riot Affected and terrorist affected family, he was not entitled to the second allotment of the plot at Patiala under the said category. The said allotment was liable to be cancelled and since the petitioner had already sold the said plot at Patiala, therefore, instead of cancelling the subsequent allotment, the cancellation of the present plot in question was upheld. Thus, allotment of both the plots at Ludhiana and Patiala stood cancelled. The petitioner filed review petition before respondent No. 1. The said Inderjit Singh who was in the waiting list also filed CWP No. 171 of 2014 in this Court praying for allotment of plot in view of cancellation of plot in favour of the petitioner. The review petition filed by the petitioner was dismissed vide order dated 7.11.2014, Annexure P.13. Hence the instant writ petition.

2. We have heard learned counsel for the parties.

3. Learned counsel for the petitioner submitted that the scope of revision petition was only relating to Plot No. 5175, Urban Estate, Dugri Road, Phase II, Ludhiana. On 18.9.2006 when the scheme was floated under the riot and terrorist affected families, neither he nor any other member of his family had any plot under the said category. Show cause notice was issued to him with regard to cancellation of Plot No. 5175, Urban Estate, Dugri Road, Phase II, Ludhiana on account of allotment of Plot No. 2298 in Urban Estate, Ludhiana and not due to allotment of Plot No. D-111, Omaxe City, Patiala. The petitioner was eligible to apply for the plot and cancellation of Plot No. 5175 measuring 766.66 square yards on account of subsequent allotment of Plot No. D-111, Omaxe City, Patiala was not in issue.

He was not put to notice with regard to cancellation of Plot No. 5175, Urban Estate, Dugri Road, Phase II, Ludhiana due to allotment of Plot No. D-111, Omaxe City, Patiala. No hearing was given to him before cancelling the said plot. The petitioner could not be vexed twice for the same mistake.

4. On the other hand, learned counsel for the respondents supported the impugned orders.

5. After hearing learned counsel for the parties, we do not find any merit in the submissions made by learned counsel for the petitioner.

6. The factual matrix in the present case requires to be noticed. The petitioner was allotted Plot No. 2298 in Urban Estate, Dugri, Ludhiana measuring 300 square yards on 5.8.2004 under general category which was sold to Madhu Sudan and Gurpreet Singh in the year 2005. Thereafter, on 18.9.2006, PUDA floated scheme for allotment of 247 freehold residential plots at Urban Estate, Dugri Road, Ludhiana. The petitioner applied under reserved category of Riot Affected and Terrorist Affected families and was allotted Plot No. 5175 measuring 766.66 square yards in Phase II, Urban Estate, Dugri Road, Ludhiana on 18.6.2007. Yet again, the petitioner applied in the reserved category of Riot Affected and Terrorist Affected families and was allotted Plot No. D-111, in Omaxe City, Patiala on 5.2.2008. Plot No. 5175 measuring 766.66 square yards was cancelled on 14.12.2009 by the Estate Officer, GLADA, Ludhiana on a complaint filed by one Inderjit Singh to the effect that before the allotment of the plot in question, the petitioner was allotted another residential Plot No. 2298 measuring 300 square yards in Phase II, Dugri, Ludhiana. The petitioner who was allotted Plot No. D-III, Omaxe City, Patiala measuring 400 square yards under the reserved category of Riot/terrorist affected families sold the said plot on 28.7.2008. As per the policy, the petitioner had to surrender one of the plots and as he had sold Plot No. O-III, Omaxe City, Patiala, therefore, he did not surrender any. Thus, it cannot be said that there was no intention on the part of the petitioner not to defraud the respondents and also the subsequent vendee. It could not be established by learned counsel for the petitioner as to how the petitioner could apply for second time in reserved category of Riot/terrorist affected families in 2008 when plot No. 5175 in Phase II, Urban Estate, Dugri Road, Ludhiana had been allotted to him under the same category. No satisfactory reply could be furnished by the learned counsel for the petitioner except to urge that the present case relates to cancellation of Plot No. 5175 in Phase II, Urban Estate, Durgri Road, Ludhiana on account of allotment of Plot No. 2298 in Urban Estate Ludhiana and not due to subsequent allotment of Plot No. D-111 in Omaxe City, Patiala. The revisional authority while dismissing the revision had recorded:--

"After hearing the contentions of the parties and considering the facts and circumstances of this case, I am of the view that although as per terms and conditions mentioned in the brochure and the affidavit annexed therewith, the scheme launched by PUDA on 18.9.2006, the petitioner was eligible to apply for

me allotment of a residential plot under the reserved category of terrorist affected and riot affected persons, because he did not own any residential plot nor, as per the records placed before me, he had availed benefit for the allotment of a plot under the reserved category, at the time of applying for the allotment of the plot in question, yet since he had got allotted another Plot No. D-III at PDA, Omaxe City, Patiala under the reserved category of terrorist affected and riot affected persons on 5.2.2008 by cancelling the allotment of plot in question, so the allotment of subsequently allotted plot was liable to be cancelled. But under the given circumstances, when the petitioner has already sold the Plot No. D-111, PDA, Omaxe City to the subsequent vendee on 28.7.2008, therefore, I hereby reject this revision petition and uphold the orders passed by the Estate Officer on 14.12.2009."

7. The Apex Court delving into the issue relating to conduct of a litigant observed in *Arunima Baruah Vs. Union of India (UOI) and Others*, (2007) 6 SCALE 293 : (2007) 6 SCC 120 : (2007) 5 SCR 904 : (2008) 1 SLJ 77 as under:--

"12. In Halsbury's Laws of England, Fourth Edition, Vol. 16, pages 874-876, the law is stated in the following terms:

"1303. He who seeks equity must do equity. In granting relief peculiar to its own jurisdiction a court of equity acts upon the rule that he who seeks equity must do equity. By this it is not meant that the court can impose arbitrary conditions upon a plaintiff simply because he stands in that position on the record. The rule means that a man who comes to seek the aid of a court of equity to enforce a claim must be prepared to submit in such proceedings to any directions which the known principles of a court of equity may make it proper to give; he must do justice as to the matters in respect of which the assistance of equity is asked. In a court of law it is otherwise: when the plaintiff is found to be entitled to judgment, the law must take its course; no terms can be imposed.

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1305. He who comes into equity must come with clean hands. A court of equity refuses relief to a plaintiff whose conduct in regard to the subject matter of the litigation has been improper. This was formerly expressed by the maxim "he who has committed iniquity shall not have equity", and relief was refused where a transaction was based on the plaintiff's fraud or misrepresentation, or where the plaintiff sought to enforce a security improperly obtained, or where he claimed a remedy for a breach of trust which he had himself procured and whereby he had obtained money. Later it was said that the plaintiff in equity must come with perfect propriety of conduct, or with clean hands. In application of the principle a person will not be allowed to assert his title to property which he has dealt with so as to defeat his creditors or evade tax, for he may not maintain an action by setting up his own fraudulent design.

The maxim does not, however, mean that equity strikes at depravity in a general way; the cleanliness required is to be judged in relation to the relief sought, and

the conduct complained of must have an immediate and necessary relation to the equity sued for, it must be depravity in a legal as well as in a moral sense. Thus, fraud on the part of a minor deprives him of his right to equitable relief notwithstanding his disability. Where the transaction is itself unlawful it is not necessary to have recourse to this principle. In equity, just as at law, no suit lies in general in respect of an illegal transaction, but this is on the ground of its illegality, not by reason of the plaintiff's demerits."

In *Kishore Samrite Vs. State of U.P. and Others*, (2013) 5 AD 594 : (2012) 10 JT 393 : (2012) 10 SCALE 330 : (2013) 2 SCC 398 , it was reiterated as under:--

"34. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equity fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem-cum-alterius detrimento et injuria fieri locupletiolem*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands."

Taking the totality of circumstances and keeping in view the conduct of the petitioner in the present case, we do not find any justification to interfere with the impugned orders. Consequently, finding no merit in the petition, the same is hereby dismissed.