
(1983) 05 P&H CK 0045
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3231 of 1982

Jagdish Rai Chawla

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 18-05-1983

Acts Referred:

Amritsar Improvement Trust Land Disposal Rules, 1951 — Rule 6(1)
Punjab Town Improvement Act, 1922 — Section 72

Citation : AIR 1984 P&H 102

Hon'ble Judges : S. Sandhawalla, C.J.; Prem Chand Jain, J

Bench : Division Bench

Judgement

Prem Chand Jain, J.—This judgment of ours would dispose of this petition and the other connected petitions--Civil writ Petitions Nos. 3652 to 3660, 4136 4710, 5091, 5613 at 1982, 117, 136 and 194 of 1963 as common question of law and fact arises in these petitions

2. In order to appreciate the controversy certain salient features of this case may be noticed:--:

3. The petitioner owned 1/8th share in the residential land in Khasra No. 857, Khautini No. 1157 measuring 6 Karnals situated in village Gumtala within the urban area of Amritsar Known as 109 Urban Tehsil Amritsar. Vide Punjab Notification No. S10 117 (41) SCI-73/"4961 dated 19th February, 1973, some land including the petitioners land was acquired by the state Of Punjab for the improvement trust. The possession the land was taken by the Improvement Trust on 19th May, 1980, after the announcement of the award on 4th May 1974. The Acquisition Collector awarded a sum of Rs. 1200/- in favour of the petitioner which was accepted by him under protest. It is further averred that after the acquisition of the land an advertisement appear in the Daily Tribune dated 17th July 1979 that a person whose land has been acquired by the Improvement Trust should make an application to the chairman, Improvement Trust, Amritsar for the allotments of the plots in lieu of the acquired land. In pursuance of the

advertisement the petitioner made an application before the chairman Improvement Trust Amritsar for the allotment of plot in the Ajnala Road. Development Scheme. Amritsar. On the said application, Plot No. A/103, measuring 250 Sq. yards was allotted by the Improve trusts vide its Resolutions Nos. 132 and 171 dated 11th February, 1982 and 24th February, 1982, respectively. This allotment as am local Displaced Person was made under the Amritsar Improvement Trust Land Disposal Rules, 1951 (hereinafter referred to as the Rules). Vide letter No. AiT/AO/ 2019 dated 25th February, 1982, the petitioner are required to deposit 1/4th price of the plot within 30 days, In pursuance of this demand notice the petitioner demand a sum of Rs. 4150/on 28th February, 1987, a 1/4th price of the plot in question. the other and time which were imposed was not fulfilled by the petitioner. The petitioner off the allotment, completed all the formalities. in plan dated a plan for sanction vide application dated 15 March, 1982, according to which, be proposed to build on the Plot. The said plan was sanctioned on 17th 1982.

4. At this stage, it may be pointed out that the petitioner was to be allotted land as a Local Displaced Person It; the Ajnala Road Expansion Scheme; but he was allotted land as a Local Displaced Person in Ajnain Road Development vide Resolution No. 138 to which reference has been made earlier. When the matter came to the notice al the Punjab Government, it found that allotment of plots to Loca1 Displaced Persons be changing to other Scheme could not " made in a different Scheme and that any allotment made vide Resolution No. 138 was contrary to the provisions of R. 6(I)(iii) of the Rules. Consequently, in and its powers under S. 72-E 127 of the Punjab Town Improvement Act, 1982 (hereinafter referred to as the Ad), the Director, Local Punjab,,vide its under dated Ist May, 1982,,under a resolution referred to above. A copy of the order is attached with the petitions annexure P. 13. It is this action of the government the legality of which has been challenged through this petition.

5. The petition came up for motion hearing on 30th July 1982 when notice of motion was issued to the respondents. In the response to the notice of the motion the respondents have put in appearance and have contested the petition. Separate written statements on behalf of the respondents Nos. 1 and 2 and the other on behalf of respondents No. 3 have been filed in which the material allegations made in the petition have been controverted.

6. On consideration of the tire matter, the Bench admitted the petition to D. B., on 17th November, 1982. That is how we are seized of the matter.

7. It was vehemently contended by Mr. J, R. Sibal, learned counsel for the petitioner, that the impugned order o! the Director, dated Ist May, 1982, is liable to be quashed, as the resolution of the Improvement Trust has been annulled without affording any opportunity of hearing to the petitioner, According to the learned counsel, a valuable right had accrued to the petitioner as a result of the resolution passed by the Improvement Trust and that this right could not legally be taken away without giving the Petitioner an opportunity of hearing.

8. After hearing the learned counsel or the parties, I find no merit in this contention of the learned counsel. It may be observed at the outset that a Division Bench judgment of this Court in *Karam Singh v. State of Punjab* (1979) PLR 12 (2) : AIR 1979 NOC 189 is clearly at the petitioner and on the strength of that judgment, the contention now raised by Mr. Sibal, learned counsel for the petitioner, that the resolution of the Improvement Trust could not be annulled without affording an opportunity of hearing to the petitioner, is liable to be rejected. But Mr. Sibal learned counsel, sought to canvass before us that the judgment in *Karam Singh's* case (supra) needs reconsideration. It appears that at the motion stage also a similar contention challenging the correctness of the judgment in *Karam Singh's* case had been raised and it was on that account that the petition was admitted to D. B. We have heard the learned counsel for the petitioner on this aspect of the matter also but find that no plausible case has been made out for reconsideration of the view taken in *Karam Singh's* case (supra) especially when the view taken in that case finds full support from the judgment of the Supreme Court in *Subhash Chandra v. Municipal Corporation of Delhi* AIR 1985 SC 1275. To avoid any confusion, it may be observed that it is correct that in *Karam Singh's* case (supra): Section 236(2) of the Punjab Municipal Act had come up for interpretation. But the ratio of that judgment is fully applicable to the case in hand, inasmuch as Section 238(2) of the Punjab Municipal Act is in pari material with S. 72-E of the Act. In *Karam Singh's* case (supra) the question that arose for determination was whether any opportunity of hearing is necessary before annulment or modification of the resolution of the Municipality. On consideration of that entire matter in depth the Bench held that no opportunity of hearing was necessary before the annulment or modification of the resolution of the Municipal Committee. In this view of the matter, the ratio of *Karam Singh's* case (supra) fully applies to this case and following the law laid down therein I find no merit in the contention of the learned counsel for the petitioner that it was incumbent upon the Director to issue notice and afford an opportunity of hearing to the petitioner before annulling the resolution of the Improvement Trust under which allotment of plot had been made in his favour.

9. This brings me to the question whether an allotment of a plot could be made in favour of a Local Displaced Person under a different Scheme without first accommodating him in the Scheme for which his land was acquired. Again, the answer to this question has to be in the negative. i. e., against the petitioner, The relevant portion of R. 6 with which we are concerned, reads as under:

6. (1) The land available for sale may, in the first place be offered for sale to:

(i) Departments of Punjab Government, Local authorities and public undertakings, bodies of public utility, reject, bodies duly registered for public purposes or public charitable and religious institutions, if any land is reserved for such purposes in the scheme:

(ii) Local Displaced persons in the following order:

(a) Owner occupiers and occupier claimants of allottable acquired evacuee properties, in whose favour allotment of such properties has actually been set aside by the Central Government.

(b) Absentee landlords.

(c) Tenants in order of maximum period of tenancy.

(iii) local displaced persons of other schemes of the Trust to whom a plot could not be given by the Trust in the order specified in Clause (ii) above.

10. An analysis of the aforesaid rule would show that Clause (iii) of the Rule provides a complete answer to the question posed. Under that clause it is clearly provided that a local displaced person is entitled to the allotment of a plot in other scheme of " the Improvement Trust to whom a plot could not be given by the Trust in a Scheme, as a result of which, he has been displaced. o the instant case; still no allotment has k en made in the Ajnala Road Expansion Scheme. I fail to understand as to how the Trust could allot e plot to the petitioner in the Ajnala Road Development Scheme in utter disregard of the provisions of Clause (iii) of Rule 6(1). The petitioner could be allotted a plot in Ajnala Road Development Scheme only If it was not possible to accommodate him in the Ajnala Road Expansion Such are. In this view of the matter, there can be no escape from the conclusion that the resolution of the Trust allotting land to the petitioner was wholly illegal being contrary to the provisions of Rule B(1) (ii) read. with R. B(1)(iii) and that the same was rightly annulled by the Director, Local Government, Punjab. in exercise of his Dowers u/s 72-E. of the Act. vide order dated 1st May. 1982 copy Annex. P. 13 to the petition.

11. No other point arises for consideration.

12. For the reasons recorded above, I find no merit in these petitions and consequently dismiss the same but without there being any order as to costs.

B.S. Sandhawalia, C.J.

13. I agree.

14. Petition dismissed.