

(2018) 07 P&H CK 0295

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 21254 Of 2016

Jagtar Singh

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

Date of Decision : 04-07-2018

Acts Referred:

Punjab Town Improvement (Utilization Of Land And Allotment Of Plots) Rules, 1983 —
Rule 4, 4(2), 5, 5(1), 6

Citation : (2018) 4 CriCC 600

Hon'ble Judges : Surya Kant, J;Sudip Ahluwalia, J

Bench : Division Bench

Advocate : S.S.Salar, Sandeep Vermani, S.S.Narula

Final Decision : Dismissed

Judgement

Surya Kant, J

[1] This order shall dispose of CWP Nos.21254 and 21267 of 2016. The petitioners in both the cases are two brothers who have a common grievance

against the rate of allotment of plots to them by the Ludhiana Improvement Trust under the category of 'Local Displaced Persons'.

The facts are like this.

[2] The land of predecessor-in-interest of the petitioners was acquired for Ludhiana Improvement Trust in the year 1973 for the development of '400

Acres Development Scheme' now known as 'Model Town Extension Part-II Scheme'. Father of the petitioners is said to have applied for allotment of

a plot on 14.08.1979 alongwith relevant documents and earnest money in the category of 'Local Displaced Persons'. The allotment was sought under

the provisions of 'Ludhiana Improvement Trust Land Disposal Rules, 1964' as repealed by 'Utilization of Land and Allotment of Plots by

Improvement Trust Rules, 1975â??.

[3] It appears that the application moved by the petitioners' father was not considered during his lifetime. After over two decades, the petitioners started representing the Trust authorities (on 25.06.2004 and 18.08.2009 etc.) for considering the claim of their predecessor-in-interest for allotment of plot(s). Finding no response, they approached this Court by way of CWP No.7171 of 2013 which was disposed of vide order dated 07.05.2013 in the following terms:-

â??....Having heard learned counsel for the petitioners and considering the nature of relief sought in this writ petition after an inordinate delay, it appears that even if the petitioners are found entitled to allotment of a plot at the current allotment price, we would be reluctant to issue any direction for it except to observe that the petitioners may pursue their claim before the Improvement Trust, Ludhiana....â??

[4] There was one more claim for similar allotment in lieu of acquisition of the land of maternal uncle of the petitioners and for settlement of such claim, they filed CWP No.5425 of 2014 (Buta Singh and another versus State of Punjab and another) which was also disposed of by this Court vide order dated 22.03.2014 somewhat in the same terms as reproduced above.

[5] In deference to the directions referred to above, Ludhiana Improvement Trust considered the claim of both the petitioners and vide two separate orders dated 17.08.2015, their claim for allotment of 500 square yard plot to each was accepted. Eventually, the petitioners were allotted two plots of 300 square yard each in â??256 Acres Schemeâ? known as Maharishi Balmik Nagar Development Scheme vide allotment letters dated 26.02.2016 (P-5) at the â??current reserve price of Rs.20700/- per square yardâ??.

[6] The grievance of the petitioners is that since they have been allotted plots in the â??256 Acres Schemeâ?, they are liable to pay the allotment price @ Rs.13800/- per square yard instead of Rs.20700/- per square yard. The allotment price @ Rs.13800/- for the afore-stated Scheme was unanimously fixed by the Improvement Trust vide resolution No.4, a copy whereof has been appended as Annexure P-22.

[7] On the contrary, it is urged by counsel for the Improvement Trust that the petitioners have no locus-standi to initiate these proceedings as both of them have already sold the plots, i.e., one even before approaching this Court

and the other during the pendency of these proceedings. A pointed reference is made to Rule-5 of the 'Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983' (for short, 'the 1983 Rules'), to contend that the rate of allotment levied on the petitioners is fully justified. A similar stand has been taken by the learned State counsel also.

[8] We have heard learned counsel for the parties at a considerable length and gone through the record.

[9] It appears that Rules 4, 5 & 6 of 1983 Rules (ibid) have a bearing on the controversy in hand. While Rule 4(2) provides that the local displaced person shall be allotted a residential plot "on reserve sale price" in accordance with the prescribed criteria, Rule-5 provides the mode of fixation of "Reserve Sale Price". Rule 5(1) reads as follows:

"5. Fixation of Reserve sale price:-

(1) The reserve sale price in respect of all the residential plots shall be fixed by the trust in accordance with the guidelines specified in the annexure

appended to these rules:

Provided that after fixation of said price, the same shall be re-fixed for the subsequent years by the trust provided that there shall be a minimum increase of not less than 10% per annum in the rates so re-fixed..."

[10] Rule-6 further provides as follows:-

"6. Sale Price:- (1) The sale price in respect of residential plots and multi-storied houses shall be fixed as under:-

(i) In the case of plots measuring upto 200 square yards and multi-storeyed house, the reserve sale price;

(ii) In the case of plots measuring upto 250 square yards, 300 square yards and 400 square yards, one and a half time the reserve sale price;

(iii) In the case of plots measuring 500 square yards, double the reserve sale price....."

[11] On a conjoint reading of the Rules, it emerges out that a local displaced person is entitled to allotment of plot subject to his eligibility on "reserve sale price" which is to be determined in accordance with Rule-5 which provides that the Trust shall fix the reserve price of residential plots keeping in view the guidelines appended with the Rules and for the subsequent years such reserve sale price shall be re-fixed with minimum increase of not

less than 10% per annum.

[12] The decision to allot the plots in the case of the petitioners was admittedly taken in the year 2015 followed by allotment letters dated 26.02.2016.

We are thus of the view that the reserve sale price as re-fixed in the year 2015 or 2016 would be the correct rate of allotment applicable in the case

of the petitioners in view of Rule-4(2) read with Rule-5 of 1983 Rules.

[13] There is no quarrel that the petitioners have been charged the allotment price as per the revised/re-fixed reserve sale price which was prevalent

at the time of allotment of plots. They cannot seek advantage of reserve sale price of the year 2013 only because they chose to approach this Court in

the year 2013. In fact, there was inordinate and unexplained delay on the part of the petitioners in asserting their claim. It is for this reason that this

Court declined to issue a positive mandamus for allotment of plots at the 'current' allotment price though left it open to the Trust to consider their

claim.

[14] In this view of the matter when the petitioners themselves are responsible to allow the grass to grow under their feet as neither did they approach

the Trust within reasonable time nor this Court, they themselves are to be blamed for the inordinate delay. They cannot thus be heard to say that the

levy of allotment price as re-fixed in the year 2015-16 is erroneous.

[15] No case to interfere with the impugned orders is made out.

[16] Dismissed.