(2015) 01 P&H CK 0015

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 16779 of 2000 (O and M)

Kaka Singh and Others APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 29-01-2015

Acts Referred:

Citation : (2015) 01 P&H CK 0015

Hon'ble Judges : Hari Pal Verma, J.;Hemant Gupta, J.

Bench : Division Bench

Advocate : Naresh Kaushal, for the Appellant; Manoj Bajaj, Additional Advocate General, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to the allotment price of Rs. 3200/- per square yard of a plot allotted to the petitioners on 14.09.1998.

2. The grievance of the petitioners is that the petitioner is entitled to allotment of a plot for which his predecessor was found eligible on 14.06.1993 at the rate of Rs. 520/- per square yard. Therefore, action of the respondents in claiming Rs. 3200/- per square yard for allotment of plot from the petitioner in lieu of his land acquired as a process of rehabilitation is arbitrary, irrational and unjust.

3. In support of such argument, learned counsel for the petitioners has relied upon an order passed by Division Bench of this Court on 17.02.1998 in CWP No. 2931 of 1997 titled Gajinder Kaur Sethi v. State of Punjab and others and another order passed in CWP No. 9775 of 2002 titled Aruna Singh v. State of Punjab, deciding the writ petition in the light of the earlier judgment.

4. A perusal of the record shows that land measuring 26 Kanal 12 Marla owned by Issar Singh, predecessor-in-interest of the petitioner, was acquired for a public purpose. The Award was announced by the Land Acquisition Collector on 27.02.1975. The petitioner, without any advertisement inviting applications for

allotment of a plot for the land owners whose land stands acquired, applied on 15.07.1980 along with sum of Rs. 2900/- said to be earnest money. Thereafter, the predecessor-in-interest of the petitioner was directed to deposit the balance amount so as to make the same equal to 25% of the tentative price of the plot. The application of Issar Singh remained pending. As per the petitioners, a draw of lots was held on 14.06.1993 wherein plot No. 528, Phase XI measuring 200 square yards was earmarked for him. But before letter of allotment could be issued, Issar Singh, the original land owner, died. It is thereafter, the plot No. 528 has been allotted to the petitioners at the rate of Rs. 3200/- per square yard.

5. The grievance of the petitioners is that since a decision was taken to allot plot at the rate of Rs. 520/- per square yard earlier, therefore, it is the said rate which alone could be charged from the petitioners.

6. In the written statement, the stand of the respondents is that the Finance Committee of the respondents in its meeting held on 30.06.1997 fixed the rates for allotment of plots in respect of plot sizes measuring 101 to 249 square yards. The rate per square yard of a plot of size 200 square yards was Rs. 3200/-. It is the said rate which has been claimed from the petitioners while issuing letter of allotment on 14.09.1998. It is also pointed out that the petitioners have not completed the formalities for allotment of plot till 30.06.1997. It is pointed out that the petitioners claim the estate of Issar Singh on the basis of Will without producing the original of the same. Therefore, the petitioners were called to obtain probate from the Competent Court of law. Various other deficiencies in the application has been delineated in para 1 of the preliminary objections.

7. We find that even as a land owner whose land stands acquired, the plot could not be allotted merely on submission of the application on first-cum-first-serve basis. The land owners whose land stands acquired constitute a class and as a class, the applications are required to be invited by public advertisement and considered. Allotment of a plot without considering the claim of all eligible land owners deprives the other land owners of their right of consideration and is against the public policy of distribution of public property. Reference may be made to judgment of Hon''ble Supreme Court in Akhil Bhartiya Upbhokta Congress Vs. State of Madhya Pradesh and Others, and Civil Appeal No. 2143 of 2007 titled Institute of Law and others Vs. Neeraj Sharma and others decided on 19.09.2014.

8. In view thereof, we find that the petitioners cannot claim that the price of the plot shall be Rs. 520/- per square yard and not a price of Rs. 3200/- per square yard charged from the petitioners while issuing the letter of allotment.

9. The judgment in Gajinder Kaur Sethi''s case (supra) is for issuance of a writ of mandamus seeking allotment of a plot at the rate of Rs. 1400/- per square yard. It is not a case where there is any finding that price of the plot to be charged has to be anything different than prevailing at the time of allotment. In fact in a judgment of Division Bench of this Court in LPA No. 2096 of 2011 titled as

Haryana Urban Development Authority and others v. Sandeep and others, decided on 25.4.2012 of which one of us (Hemant Gupta J.) was a member has held that the price of the plot to be charged is the price prevailing on the date of issuance of letter of allotment. The Special Leave Petition against the said order stands dismissed.

10. Another Division Bench judgment of this Court in CWP No. 1454 of 1992 titled The Chandigarh Vayu Barti Coop House Building Society v. Union of India and others, decided on 18.12.1996, rejected the claim of the petitioner for fixation of price for allotment of land at the price prevailing in the year 1981. It was found that it would be nothing else but an undue enrichment of the petitioners at the cost of State Exchequer or at the cost of other tax payer. It was observed as under:-

" Allowing claim of the petitioners with respect to fixation of price for the allotment of land at the price prevailing in 1981 would, in our considered view, be nothing else but an undue enrichment of the petitioners at the cost of State exchequer at the cost of other tax payers. The petitioners cannot claim nor on any principle of fairness it has been shown that they are entitled to the allotment of plots as a matter of right at the cost prevailing in 1981 when infact the plots were allotted in 1993. It has been held by Hon''ble the Supreme Court that the State is at liberty to offer plots at a price fixed by it. It is for the petitioners to have it or not to have it. Courts cannot enter into an arena of arithmetical calculations in the absence of various statics, which were kept in view by the authorities while assessing the market value of the plots offered to be allotted to the petitioners."

11. In view thereof, we do not find any merit in the present writ petition. The same is dismissed.