
(2013) 03 P&H CK 0162
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6558 of 2013

Mohinder Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 26-03-2013

Acts Referred:

Citation : (2013) 2 PLR 735

Hon'ble Judges : Surya Kant, J;R.P. Nagrath, J

Bench : Division Bench

Judgement

Surya Kant, J.—Two fold relief has been sought by the petitioners in the instant writ petition. Firstly, they seek a mandamus to direct the Greater Mohali Area Development Authority (for short, "the G.M.A.D.A.") to allot them a plot measuring 1 kanal (500 square yards) under the Oustee category against form No. 14319 dated 22.1.2002. Secondly, they challenge para No. 11 of the Oustee Policy dated 25.5.2011 (Annexure P-6). As regard to the second prayer, the claim of the petitioners is that the land owned by their predecessor, namely, Pritam Singh son of Basawa Singh has been acquired twice, i.e., Firstly vide award No. 422 dated 12.7.1984 and then again vide award No. 481 dated 17.5.2001. Pritam Singh had applied for allotment of a plot measuring 8 marlas against form No. 14319 dated 22.1.2002 alongwith requisite amount of earnest money. According to the petitioners, if both the acquisitions are clubbed together then they are entitled to a plot measuring 1 kanal (500 square yards) as per para No. 4 of the Instructions dated 8.11.1993 (Annexure P-2).

2. The aforesaid benefit has not been, however, extended to the petitioners, as according to them, para No. 11 of the Oustee Policy dated 25.5.2011 (Annexure P-6) comes in their way. The petitioners accordingly question the legality of para No. 11 of the Oustee policy dated 25.5.2011, which reads as follows:--

...11. As regards the oustees whose land was acquired through land acquisition awards announced on or after 7.5.2001 but before the notification of this policy, they shall continue to be governed by the policy hitherto in force. However, para

2.2 and para 5 of this policy shall also be applicable to such....

3. It may be seen that as per the above reproduced clause, the oustee policy dated 25.5.2011 is prospective and would not apply to the acquisitions which have taken place before thereto or after 7.5.2001. It necessarily mean that the acquisitions have been classified in three groups, namely (i) those which took place before 7.5.2001, (ii) those which have taken place between 7.5.2001 till the new policy came into force on 25.5.2011 and (iii) those which have been made after 25.5.2011. Para No. 11, reproduced above, restricts the benefit of oustee policy dated 25.5.2011 qua those acquisitions which have taken place after the said policy has come into force.

4. In our considered view, once the policy has been applied from a specified cut off date uniformly and indiscriminately, it does not violate Article 14 of the Constitution nor its cut off date can be preponed on equitable considerations. It may be true that the Competent Authority may introduce a welfare/beneficial policy retrospectively but such a decision falls exclusively within the domain of policy makers. The Writ Court can intervene only in a case where the executive decision is being applied retrospectively to take away a benefit already conferred. No fault thus can be found with para No. 11 of the oustee policy dated 25.5.2031. The challenge laid by the petitioners to the same is accordingly turned down. Adverting to the first relief, suffice it would be to direct respondent Nos. 2 & 3 to consider the claim of the petitioners in accordance with policy as may be applicable in their case and by following the principle of parity, and determine the same as early as possible but not later than two months from the date of receiving a certified copy of this order.

Ordered accordingly.