(2017) 02 P&H CK 0223

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 2206 of 2017

M/s. Ganesh Trading Co. APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 07-02-2017

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2017) 2 LawHerald 1159

Hon'ble Judges : Mr. Surya Kant and Sudip Ahluwalia, JJ.

Bench : Division Bench

Advocate : Mr. Ashwani Kumar Chopra, Senior Advocate with S/Shri G.S. Sullar, Devaki Anand Sullar and Ankit Midha, Advocates, for the Petitioner

Final Decision : Dismissed

Judgement

Sudip Ahluwalia, J.—Petitioners in this case are the Traders of Julana Mandi, District Jind. They are engaged in the business of Trading of Agriculture Produce at Julana Anaj Mandi. Their grievance is against the fixation and subsequent enhancement of the reserve allotment price for shop plots in New Grain Market, Julana, which according to them, has been determined arbitrarily, illegally, in an unjust and unfair manner and in ignorance of the provisions of the Punjab Agricultural Produce Markets Act, 1961 and the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Amendment Rules, 2008.

2. Petitioners were originally carrying on their Trade from their shops in the old Grain Market, Julana, which was in existence since 1927. The State Government, intending to acquire certain lands for construction of New Grain and Vegetable Market at Julana, issued the relevant Notifications under Sections 4 & 6 of the Land Acquisition Act, 1894 on 21.9.2004 and 5.10.2005 respectively. After completion of acquisition proceedings, the concerned Authorities initiated the process by drawing a Layout Plan of shop plots etc. sought to be constructed at the acquired site. Consequently, the Schedule for submission of applications was

notified to the Traders in the old Market. However, initially only 85 traders were found eligible for allotment, while the petitioners were denied such allotment on some technical grounds. They accordingly filed their individual appeals, under Rule 11 of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Amendment Rules, 2008 challenging the concerned order before Respondent No.2. Those appeals were allowed by similar but separate orders passed by Respondent No.2 on 28.7.2010 in which, it was held that they were bona fide and genuine old licensees of Category-II working in the old Grain Market, and that rejection of allotment of shop plots on reserve price to them was therefore, not justified.

3. In the meantime, the Association of the old licensees namely ''Vyapar Mandal Association, Julana Mandi'' had been separately endeavouring to have the original reserve allotment price to be reduced. Ultimately, two separate Writ Petitions on behalf of petitioners as well as other similarly situated allottees, being CWP Nos. 15051 of 2010 and 3326 of 2012 were filed, which were disposed of by a Division Bench of this Court on 11.2.2013 with a direction upon the Committee of the Respondent/Board to calculate the price of plots after giving an opportunity of hearing to the representative of the old licensees and in accordance with the Policy of the Haryana State Agricultural Marketing Board without being influenced by the highest price fetched in the subsequent open auction, and to pass a speaking order within a period of four months. Consequently, the impugned original reserve price of Rs. 28.50 lacs was reduced to Rs. 22.50 lacs by the Haryana State Agricultural Marketing Board and the detailed calculations of which are on record as part of Annexure P-13.

4. In case of the petitioners, however, an interest component of 15% per annum apart from certain enhancement cost was added to the revised reserve price of Rs. 22.50 lacs on account of the time factor as their allotments had come to be made only in the year 2012. The final reserve price for the petitioners in this manner came to Rs. 29,53,125/- which was then rounded off to Rs. 30 lacs by the Board. Being aggrieved against this increased reserve price, the petitioners filed Revision Petition No.35 of 2013 before Respondent No.1, which was however, disposed of only on 11.7.2016 after intervention of this Court by virtue of the order dated 18.1.2016 passed in CWP No.910 of 2016. In the impugned order (Annexure P-17), Respondent No.1 virtually rejected the claim of the petitioners challenging the fixation of the enhanced reserve price as applicable to them. They have therefore, approached this Court by way of the present Writ Petition.

5. The grievance of the petitioners is that while reserve price of the shop plots in case of the original 85 allottees was reduced to Rs. 22.50 lacs, in their case, the same was increased to Rs. 30 lacs. They are particularly aggrieved with the denial of waiver of interest which was added to their allotment on the ground that the same were made after 12.9.2011.

6. It may be observed that the original reserve price for the shop plots was Rs.

28.50 lacs. The same was thereafter reduced to Rs. 22,39,390/- (Rounded Off to Rs. 22.50 lacs) in compliance of the earlier directions of this Court given in CWP Nos.15051 of 2010 and 3326 of 2012. The Calculation sheet in this regard (Annexure P-13) in our view depicts an objective and logical approach in determining the reserve price by taking into account the original land cost apart from estimated enhancement as well as the development costs, sundry charges on development/interest for three years and quantified departmental and administrative charges on the development cost. In fact, the very submission that the present petitioners are being victimized by way of imposition of interest on this reserved price clearly indicates that even they tacitly acknowledge the correctness of this reduced reserve price, which includes an additional components of 35%, which is specifically in accordance with Rule 3(1) (ii) of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000.

7. The rationale for imposition of interest on the subsequent allotment is contained in the Board''s decision in the form of Annexure P-18, wherein it is noted that in the event of subsequent acceptance of certain applications for allotment originally rejected after the delay of many years, the Board/Market Committee stands to lose interest on its investment, having also to pay the interest on its borrowing and thereby suffers uncalled for financial loss, on account of which updation of the concessional price from time to time is inevitable. Consequently, the decision was taken to raise the same at the rate of 15% per annum as simple interest, as against the original practise of compound interest for the same amount. This rationale of including the interest factor in case of subsequent allotments is therefore, also logical and applicable in the facts of the present case. We say so because perusal of the relevant similar order dated 28.7.2010 passed by Respondent No.2 in relation to the separate appeals of various petitioners under Rule 11 of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Amendment Rules, 2008 read with Sections 18 and 43 (1) (2) and (vi) of the Punjab Agricultural Produce Markets Act, 1961, which have been collectively filed as Annexure P-1 go to show that the various appeals were allowed in the ''peculiar facts and circumstances'' of each case with the further observation .... I am of the view that a liberal view may be taken in the present case...........'' There is no observation any where to the effect that non-allotment of the shop plots to the various appellants in each case was on account of any mala fide or extraneous reasons. It was essentially a question of interpretation of the Rules, and the Appellate Authority in its ultimate decision did away with the technical disabilities, which had come in the way of the concerned appellants for the purpose of the original allotments. In the absence of any visible mala fide or motivated approach, we do not find any justification to consider waiver of interest on the reserved price on account of delayed allotments in favour of the petitioners. On the other hand, it is seen that Respondent No.1 in his impugned order dated 11.7.2016 (Annexure P-17) while refusing to interfere with the computation/calculation of revised reserve price

applicable for the petitioners, had nevertheless done away with the additional amount of Rs. 46,875/- from the said price, which had been added to the final calculated figure of Rs. 29,53,125/- only for the purpose of ''Rounding Off''.

8. We therefore, find no reason to interfere with the aforesaid order. The Writ Petition is thus, dismissed.

