

(2012) 03 SHI CK 0301
In the High Court Of Himachal Pradesh
Case No : CWP No. 11259 of 2011-F

O.P. Sood

APPELLANT

Vs

Himachal Pradesh Housing and Urban Development Authority
and The State of Himachal Pradesh

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0301

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Judgement

Surinder Singh, Judge

1. In the above titled petitions, the petitioners have claimed the following reliefs:

a) That the respondents may be directed to produce the entire record pertaining to the case and the illegal, arbitrary and unreasonable demand of Rs. 613/-per sq. meter being made by the respondents for the acquired land may kindly be quashed and set aside and the demand notice (Annexure-PA), may kindly be quashed.

b) That the respondents be directed to refund the excess amount already paid by the petitioners and other allottees upto the year, 1997 alongwith upto date interest @ 9% per-annum and to adjust part of this amount towards any additional demand, which the respondents may have.

c) That the respondents be directed to adjust the part of the excess amount refundable to the petitioner towards charges for conversion from lease hold to free hold.

d) That the record of the Civil Writ Petition No. 3206 of 2011 titled as Sunil Kumar Gupta Vs. Himuda as well as record of CWP No. 46 of 2010, titled as Dr. Kuldeep Maria Vs. Himuda and the record of CWP No. 851 of 2010, preferred by the present petitioner may kindly be summoned and the averments made therein

and the documents appended therewith may kindly be read as part and parcel alongwith this writ petition.

e) That the present petition may kindly be consolidated and heard together with CWP No. 3206 of 2011, titled as Sunil Kumar Gupta Vs. Himuda & another and the averments and submissions made therein as well as the documents appended therewith may kindly be read as a part and parcel of the present writ petition.

The perusal of record reveals that during the pendency of CWP No. 3206 of 2011 and other bunch matters, the present petitions were pending but could not be consolidated with it and the bunch matters were disposed of finally on 9.1.2012 by a common judgment.

2. The facts as well as the reliefs claimed in the present petitions are also the same. Briefly stated, the facts are that Shimla Development Authority (SDA) had announced 5th Partially Self Financing Scheme and the 6th Self Financing Scheme in the year 1989 for the construction of residential complex below Bishop Cotton School (Phase-II) and each of the petitioners were allotted house/plot in New Shimla and put in possession after paying the additional demand made by the first respondent.

3. On 5.6.2008, the first respondent demanded an additional amount at the rate of Rs. 613/-per square meter, which was agitated by filing CWP No. 46 of 2010 titled as Kuldeep Maria vs. Himuda and another. The bunch matters consisting of 72 cases were disposed of by a common judgment by passing certain directions as contained in the judgment. Thereafter various meetings were held between the representatives/Chartered Accountants of the allottees and the first respondent.

4. On 4.9.2010, in the final costing of Sector-III and IV, New Shimla, the first respondent included the notional interest of Rs. 5,13,36,451/-which was neither paid by respondent No. 1 nor it was stated to have been entered in the books of accounts. As such, the Chartered Accountants of the petitioners submitted their objections for the final costing. It is alleged that without complying with the judgment passed in Kuldeep Maria's case supra, as well as specific objections raised by the Chartered Accountants of the allottees, the first respondent wrongly called upon the petitioners to deposit the additional amount. Thus, feeling aggrieved of the alleged arbitrariness of the respondents, the present petitions were filed.

5. In CWP No. 3206 of 2011, titled as Sunil Kumar Gupta Vs. Himuda and other connected matters, while allowing all the petitions, the additional demands raised by the respondent (HIMUDA) in terms of various communications issued in the year 2007-08 were quashed and the direction was passed to issue fresh letters of demand to the petitioner(s) in the light of the observations made in the judgment. Since the matters in hand are covered by the common judgment rendered in Sunil Kumar Gupta's case supra, these petitions are also disposed of

in the light of the aforesaid judgment. meetings were held between the representatives/Chartered Accountants of the allottees and the first respondent. Consequently, the additional demands raised by "HIMUDA", in terms of communications, Annexure P-A, dated 23.5.2011 in CWP No. 11259 of 2011 titled as O.P. Sood Vs. Himuda & another, Annexure P-A, dated 23.4.2011 in CWP No. 11263 of 2011 titled as Sudhir Chander Sharma Vs. Himuda & another and Annexure P-A, dated 29.6.2011 in CWP No. 11264 of 2011 titled as Ashok Dwivedi Vs. Himuda & another, are quashed. "HIMUDA", the first respondent is directed to issue fresh letters of demands to the petitioners as contained in Sunil Kumar Gupta's case supra.