
(1994) 08 P&H CK 0076
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6121 of 1993

Parkash Wanti (Deceased) through L.Rs. APPELLANT
Vs
State of Punjab and Others RESPONDENT

Date of Decision : 09-08-1994

Acts Referred:

Citation : (1995) 109 PLR 710

Hon'ble Judges : N.K. Kapoor, J;Amrit Lal Bahri, J

Bench : Division Bench

Advocate : J.P.S. Sandhu, for the Appellant; Naresh Prabhakar, for the Respondent

Judgement

N.K. Kapoor, J.—Petitioner has sought issuance of a writ of mandamus directing the respondents to allot one Kanal plot at S.A.S. Nagar (Mohali) at old rates as per registration No. 9085 dated 18.3.1974.

2. Petitioner's son applied for allotment of a ten marla plot at S.A.S. Nagar (Mohali) on 18.3.1974. He submitted an application along with earnest amount Rs. 1000/- which was received by the Estate Officer, Punjab, vide receipt Annexure P-1 dated 18.3.1974. This allotment was upgraded from 10 Marla to 1 Kanal as per order of the Estate Officer, dated 4.10.1980-Annexure P-2. Vide this letter, the original allotment in favour of the petitioner's son Hardial Singh was ordered to be transferred in the name of Smt. Parkashwanti, his mother. The petitioner sent a draft of Rs. 28,500/- i.e. remaining amount of the sale price as per allotment letter, as far back as on October 4, 1980. Despite having complied with the requisite terms and conditions imposed by the respondents plot was not allotted to the petitioner who thus had knocked the door of the authorities time and again but without any success. Written representations were also filed which are Annexures P-3 to P-5 Except acknowledging the representations, no effective steps were taken by the respondents to deliver the possession of the plot though she has paid the full amount of the sale consideration. It is in these circumstances that the petitioner had approached this Court for a writ of

mandamus.

3. Pursuance to the notice of motion issued, respondents have put in appearance. Respondents No. 2 and 3 have filed written statement. Factual aspects i.e. allotment of the 10 Maria plot and its subsequent conversion into 1 Kanal plot and payment of the whole amount as then claimed has been admitted. All the same, petitioners claim has been resisted on the ground that in view of the change in the policy, plots of the size of 1 Kanal are now to be sold by public auction and it is for this precise reason that the possession of the plot has not been given to the petitioner. Further justifying their stand, the respondents have stated that the petitioner was expected to exercise her option as now sought vide Annexure R-2 dated 13.9.1993. As per changed conditions she was required to deposit the additional amount on or before 20.9.1993. Since the petitioner failed to deposit the amount as claimed vide Annexure R-2, she is not entitled to allotment of plot.

4. By way of replication, petitioner controverted the various averments made by respondents in their written statement. In addition thereto, it has been stated that the petitioner, in fact, is governed by the policy of 1974 which was in force in the year 1988 when the petitioner had deposited the full amount of the plot. Reliance was placed upon the decision of this Court in C.W.P. No. 5317 of 1987 titled Raj Pal Singh v. The Director Urban Estate Punjab, decided on 19.1.1993 for the view that the petitioner is entitled to allotment of plot on the basis of old policy.

5. We have heard learned counsel for the parties and have perused the relevant documents referred to during the course of arguments. Factual aspects are not in dispute. Petitioner applied for allotment of plot way back in the year 1974 and deposited the full amount of the sale consideration as early as on October 4, 1980. Since the petitioner had deposited the full amount, she, in fact, was entitled to a preferential right as per policy then prevalent. No explanation is forthcoming from the respondents as to why the plot was not allotted during all these years. The claim of the petitioner is being resisted solely on the ground that in view of the changed policy, the petitioner is not entitled to any allotment unless she conforms to the stipulation now introduced. Even with regard to the new policy, the case of the respondents is that since the petitioner failed to deposit the enhanced amount claimed, presently there is no policy of allotment of 1 Kanal plot, which can now be purchased by participating in an auction. This submission of the respondents counsel is wholly devoid of any merit. The case of the petitioner is to be examined in the light of the policy with regard to the allotment of plots then prevalent. The petitioner certainly is not bound by any subsequent change which may be made by the respondents with regard to allotment of plots. In any case, any such policy can be prospective in its operation. The claim of the petitioner is fully justified as per facts noticed. Earlier too, the matter came up for consideration in CWP No. 5317 of 1987 wherein it was held that the petitioner is not bound by the change of the policy by the

government since he had deposited the whole of the consideration amount earlier. This precise objection was not accepted by the Court holding that the changed policy cannot operate retrospectively. For identical reasons, we too hold that since the petitioner paid whole of the consideration amount as per then existing policy for allotment of plot, subsequent change in the policy cannot in any manner adversely effect her rights. In these circumstances, we direct the respondents to allot one Kanal plot at S.A.S. Nagar (Mohali) within a period of two months from the passing of the order. No order as to costs.