
(1996) 07 P&H CK 0139
In the Punjab And Haryana At Chandigarh

Purshotam Dass	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 01-07-1996

Acts Referred:

Punjab Town Improvement (Utilisation of Lands and Allotment of Plots) Rules, 1983 — Rule 8

Citation : (1996) 114 PLR 62 : (1997) 1 RCR(Civil) 70

Hon'ble Judges : R.S. Mongia, J

Bench : Single Bench

Advocate : O.P. Goyal, Parmodh Goyal and Sandeep Kumar, for the Appellant; I.S. Sidhu, for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

R.S. Mongia, J.—An area of 5.5 acres of land was acquired by the State Government in the year 1974 for Improvement Trust Khanna (hereinafter referred to as "the Trust") for a scheme to develop a shopping centre on Karnail Singh Road, Khanna, popularly known as "Sri Guru Amar Das Market Scheme". A plot measuring 13 ft. X 50 ft. = 650 sq. ft. belonging to the petitioner was also acquired for the said scheme. The petitioner claiming himself to be a local displaced person under rules known as "The Utilisation of Land and Allotment of Plots by Improvement Trust Rules, 1975" applied to the Trust for allotment of a site in lieu of the land acquired for the Trust by the Government. The Trust vide its resolution dated July 25, 1977 (copy at Annexure P.1), accorded sanction for allotment of commercial plots to 12 persons, including the petitioner, Vide letter dated June 27, 1980, the Chairman of the Trust informed the petitioner that he had been allotted Plot No. 179, measuring 15.5. Sq. Yds. at the rate of Rs. 290/- per square yard to the Shri Guru Amardas Market Scheme. In accordance with the terms of this allotment, the petitioner deposited Rs. 4350/- by the stipulated date and also deposited another sum of Rs. 300/- towards security. It is the case of the petitioner that the Trust failed to deliver the possession of the allotted plot despite many representations to that effect. It has further been averred in the

petition that the petitioner was verbally informed somewhere in October, 1982 that the Trust was unable to give possession and demarcation of Plot No. 179 since no such plot existed at the spot in the duly approved plan. The petitioner was further asked to submit another application for allotment of an alternative site. The petitioner is stated to have moved an application on 18.10.1982 requesting the Trust to allot some commercial plot to the petitioner in lieu of Plot No. 179 of which the possession had not been delivered to him.

2. In response to the aforesaid application of the petitioner, the Trust vide its resolution of 154, dated March 30, 1983, decided to allot Booth No. 12, measuring 31.06 Sq. Yds. in the Narotam Nagar Development Scheme of the Trust at the rate of Rs. 250/- per square yard and accordingly the petitioner was informed vide letter dated April 19, 1983. The petitioner was directed to deposit the balance amount of the total cost of the booth within 15 days of the receipt of the letter. The petitioner deposited the balance amount within the stipulated period and also another sum of Rs. 200/- towards security.

3. The petitioner was informed vide letter dated June 8, 1983 (copy at Annexure P.9) that the allotment of the aforesaid Booth in Narotam Nagar Development Scheme had been suspended on the basis of Regional Deputy Director, Local Bodies Department Ludhiana's letter dated June 2, 1983 and further proceedings would be initiated by the Trust after the receipt of further clarification from the office of the Regional Deputy Director. Vide order dated May 15, 1985, (copy at Annexure P.13), the Joint Secretary to Government Punjab, Local Government, exercising the powers u/s 72-B of the Punjab Town Improvement Act, 1922, confirmed the order of the Regional Director, Local Government, Ludhiana, which was issued vide endorsement dated June 2, 1983 suspending the resolution No. 154, dated March 30, 1983 of the Improvement Trust, Khanna the letter of the Regional Director, Local Government Ludhiana, dated June 02, 1983, as well as the order of the Joint Secretary to Government Punjab, dated May 15, 1985, have been made the subject-matter of challenge in this writ petition.

4. Learned counsel for the petitioner argued that the petitioner is admittedly a displaced person under the 1975 Rules and was entitled to allotment of a commercial site in lieu of the acquisition of his land and in fact along with many other similarly situated persons had been allotted a commercial site. The other displaced persons, to whom the commercial sites were allotted, were not only delivered possession of the same, but they were also allowed to construct their own shops/building thereon and no action was taken by the Government against the Trust or those allottees for having been allotted the commercial sites. No reason is forthcoming as to why commercial site could not be allotted to the petitioner, the resolution of the Trust allotting commercial site to the petitioner could not have been suspended by the Government. The action of the Government is arbitrary and discriminatory. In support of his contention, learned counsel for the petitioner relied upon a judgment of this Court in CWP No. 2214 of 1985, decided on February 8, 1994 Jagdish Rai Vs. State of Punjab, .

5. Learned counsel for the Trust, however, argued that since the Trust's resolution had been suspended by the Government it had no option but to decline to deliver the possession of the allotted site to the petitioner. He referred to Rule 8 of the Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983, to contend that commercial plots could not have been allotted to the displaced persons and in fact commercial plots could only be sold by auction. He further referred to Rule 6 of the 1975 Rules to contend that in fact even under 1975 Rules, commercial plots could not have been allotted by the Trust to the displaced persons.

6. After hearing the learned counsel for the parties, I am of the view that this petition must succeed. 1983 Rules to which reference has been made by the learned counsel for the Trust cannot be made applicable to the acquisition which was made prior to 1983. The said acquisition and the utilisation of the land and allotment of plots has to be governed by 1975 Rules. There is no specific bar to the allotment of commercial sites to the displaced persons in lieu of their acquired land. Rule 6 of 1975 Rules reads as under :-

"6. Fixation of Reserve Price of the plots in Group IV. -

(1) The minimum reserve price of the residential plots in Group IV and commercial plots, to be sold by auction, will be fixed by the Improvement Trusts in each case. The reserve price shall be worked out on the basis of the broad guidelines given in the Annexure and intimation of the price so fixed shall be sent to the Government:

Provided that the reserve price in respect of commercial plots may vary on differential basis depending upon the type of commercial construction planned for. That is to say, price for smaller unit like booths may be fixed lower as compared to the price for bigger shops, commercial establishments, show rooms etc. etc.

(2) Price of land for institutional purposes shall be worked out on the basis of the formula given in the annexure, except that unforeseen charges at rate of 15 percent shall not be computed in working out the price per square yard, the same being the liability of the institution to which the land is to be allotted."

7. From the reading of the above rule, it cannot be said that it is only residential plots that can be allotted to displaced persons. Rule 6 only talks of fixation of reserve price for the residential plots and the commercial plots which are to be sold by public auction. It nowhere mentions that allotment to the displaced persons of a commercial plot cannot be done. It was perhaps for this reason that Rule 8 was introduced in the 1983 Rules, by which a specific bar was brought in that the commercial plots shall only be sold by auction. Not only this, it has specifically been mentioned by the petitioner that the commercial sites had been allotted by the Trust to other displaced persons and in fact they were delivered the possession of plots where they have made the construction. The petitioner could not be singled out inasmuch as no action was taken against the other

allottees of the commercial plots. Further I find that no reasons are forthcoming in the impugned orders as to why the petitioners was not eligible for allotment of a commercial site. The view taken by me finds support from the earlier judgment of this Court in Jagdish Rai's case (supra).

8. While admitting this writ petition on August 14, 1985, the Motion Bench had issued the following interim directions :-

"The respondent-trust is directed to provisionally reserve one plot or booth in any scheme for the petitioner which would be dealt with in the light of the decision of this writ petition."

9. For the foregoing reasons, this writ petition is allowed and the respondent-Improvement Trust is directed to deliver possession of Booth No. 12 in Narotam Nagar Development Scheme to the petitioner, in case the possession thereof has not been delivered to any other person. If the said booth is not available for being delivered possession to the petitioner, then in accordance with the directions of his Court, dated August 14, 1985, the petitioner be allotted and delivered possession of a booth or plot of equivalent size which the petitioner was allotted by the Improvement Trust vide its Resolution No. 154, dated March 30, 1983. Let these directions be carried put within one month of the receipt of a copy of this order either from this Court or a certified copy thereof from the petitioner. There will, however, be no order as to costs.