
(2009) 03 P&H CK 0016
In the Punjab And Haryana At Chandigarh
Case No : C.W.P No. 689 of 1991

Rakesh Kumar and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 17-03-2009

Acts Referred:

New Mandi Township Rules, 1965 — Rule 8

Citation : (2009) 03 P&H CK 0016

Hon'ble Judges : Surya Kant, J

Bench : Single Bench

Judgement

Surya Kant, J.—The Petitioners seek a mandamus to direct the Respondents to start development works in the New Grain Market yard at

Rajpura. The Petitioners have been allotted the plots in the said grain market being the highest bidders an open auction held on 13.06.1990. As

per the terms and conditions of the allotment, the Petitioners were required to deposit 25% of the auction amount at the time of auction, whereas

the balance 75% could be deposited within one month, without any interest or in six yearly installments together with interest @ 6% per annum. In

the event of delay in payment of installments, the Petitioners were liable to pay the penalty in accordance with Rule 8 of the New Mandi Township

Rules, 1965.

2. It is the conceded position that the Petitioners have paid only 25% of the auction amount and no payment towards 75% balance amount has

been made. The Petitioners' grievance at the time of filing of this writ petition (in the year 1993) was that though about an year has passed after the

allotment but no development activities were yet to be started by the Respondents.

3.While issuing notice to the Respondents, the Motion Bench stayed further recovery from the Petitioners till further orders.

4. Respondent No. 2- the Marketing Board has filed its counter-affidavit dated 02.04.1991 with a categorical stand that ""it has already provided the

requisite facility in respect of construction of platforms, pacca roads, permanent electricity and boundary walls and tap water"". It was denied that

there were pit holes or uneven land in the market yard.

5. The Secretary of the Respondent-Marketing Board has thereafter filed an additional affidavit dated 02.11.2007 suggesting that the development

activities stood completed by the end of October, 2007. He has filed another short affidavit dated 02.07.2007 in CWP No. 9869 of 1993,

paragraph 2 of which reads as under:

That with regard to the development works in the New Mandi, it is submitted that a chart has been prepared by the Executive Engineer, Punjab

Mandi Board, Chandigarh depicting the latest status report regarding development works initiated till date in the said Mandi which has already

been placed on record of this Hon''ble Court vide order 26.02.2007. As per the above said report, the development work with respect to

provision of Auction Platforms, Subji Mandi, APF, Sheds, Office, Water Works, Sewerage System, Electricity etc. has been completed in the

areas in actual physical possession of the committee. The area/portion which is under encroachment has to be removed by the Colonisation

Department, land being in the name of Punjab Govt. The matter regarding encroachments has been brought to the notice of the District

Administration from time to time by the Committee and has been under the active consideration of the District Administration

6. I have heard learned Counsel for the parties at some length and perused the records, including the Inspection Report and the additional affidavit

referred to above.

7. Two fold contentions have been raised on behalf of the Petitioners. It is urged that the illegal encroachments made by the jhuggi dwellers have

not been removed till date and as a result thereto, neither the plots have been demarcated at the spot nor possession delivered to the Petitioners

due to which the Petitioners are unable to utilize the allotted sites. It is also the C.W.P No. 689 OF 1991 -4 Petitioners'' case that the development

activities like metalled roads, water supply, sewerage etc. have also not been fully completed.

8. On the other hand, learned Counsel for the Respondent-Board and the Marketing Committee maintains that except for a few encroachments,

the development activities have been fully completed and the Petitioners are in a position to take possession of the plot and raise construction.

9. Having given my thoughtful consideration to the rival contentions, I am of the considered view that at the time of auctioning itself, it was obligated

upon the Respondents to ensure that the sites were free from all encumbrances. In any case the Respondents were duty bound to see that soon

after the auction, the encroachments, if any, were removed and the sites made available to the Petitioners after providing necessary basic amenities.

It further appears that no sincere efforts to remove the unauthorized encroachments have been made by the Board or the Marketing Committee

who are rather accusing the Colonization Department for inaction. In these circumstances, I dispose of these writ petitions with the following

directions:

(i) The Respondents are directed to remove the encroachments and complete the development works, if the same are still lying incomplete within a

period of six months from the date a certified copy of this order is received.

(ii) The Petitioners shall, meanwhile, if they want to retain the plots, make the payment of at least half of the due installments along with interest

before 30.06.2009. The balance payment shall be made by the Petitioners within one month on completion of development works and removal of

the encroachments. The Respondents shall not be entitled to charge any interest from the Petitioners for the six months" period only which is being

granted to them to complete or remove the encroachments and/or to complete the development works.

(iii) There shall, however, be given an option to the Petitioners to enable them to surrender the plots, if they so want, within one month from the

date of receipt of certified copy of this order and in that event, the amount deposited so far shall be refunded to them along with interest @ 10%.

Disposed of.