
(1996) 12 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12296 of 1993

Ram Kumar Gupta

APPELLANT

Vs

Haryana Urban Development Authority and Others

RESPONDENT

Date of Decision : 10-12-1996

Acts Referred:

Citation : (1997) 115 PLR 668 : (1997) 2 RCR(Civil) 379

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : K.L. Arora and R.K. Gautam, for the Appellant; Deepali Puri, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed by the petitioner to quash the order passed by the Ist respondent dated 27.6.1991 (Annexure P-3) and also the order passed by the 3rd respondent dated 7.1.1992 vide Annexure P-4.

2. The petitioner was allotted an industrial plot bearing No. 55 in Sector 25 in the Industrial Area at Panipat measuring 1050 sq. metres in the year 1993. Adjoining to the said plot, there is a triangular piece of land measuring 679 sq. metres which was not utilized, As the said land which was adjoining his plot was lying vacant/unutilized, the petitioner made an application on 11.5.1989 to the 3rd respondent to allot the same to him. As no order have been passed on his application, he made another application on 7.11.1990. The Ist respondent passed an order dated 27.6.1991 allotting the said additional land to the petitioner at a rate of Rs. 455.12 Ps. per sq. yard. The 3rd respondent informed of the same to the petitioner by his letter dated 7.1.1992 (Annexure P-4). According to the petitioner, the rate charged by the respondents for the said additional land is unreasonable and according to him, the said land has to be allotted to him at the original price of Rs. 190/- per sq. metre. He further submitted that some of the allotted were charged the original price of Rs. 190/- per sq. metre. As the respondents have not decided his representation dated

13.1.1992 and also the further representation dated 20.1.1992, the petitioner filed this writ petition for quashing that part of the order of the 1st respondent demanding Rs. 455.12 Ps. per sq. metre for the land in question and to direct the respondents to transfer the said land in favour of the petitioner at the rate of Rs. 190/- per sq. metre.

3. The petitioner is relying on a resolution of the 1st respondent which was passed in its 31st Meeting bearing No. A-31/17. Annexure P-7 is the said resolution. The relevant portion of the said resolution reads as follows :

"Keeping in view the above situation, it has been suggested that such additional open spaces are available in different Urban Estate and which are of no use from the angle of Planning they may be given to the allottees of corner plots on the basis of sale. The price to be charged is the same which was charged from the allottees of corner plots. This price shall include the enhanced price of concerned plots. But only those plots may be transferred whose area is less than the corner plots. If the area of such open spaces is more than the area of adjoining corner plots, such places should be kept open and not transferred."

Relying on the said resolution, the petitioner submits that he is entitled to have the adjoining land transferred to him at the rate at which the corner plot was allotted to him.

4. It is the contention of the respondents that as per the guidelines for allotment of industrial open spaces to the allottees circulated vide Memo No. A-11-87/7949-64 dated 19.3.1987, the allottee has to pay the rate of the year of allotment of additional land to the allottee and not the rate of original allotment and the rate being charged from the petitioner is in accordance with the Policy of the Haryana Urban Development Authority. Therefore, the petitioner cannot take advantage of the resolution which was passed prior to 1987."

5. The learned counsel for the petitioner relied upon a decision of this Court in C.W.P. No. 10004 of 1988 and contended that the open space adjoining the petitioner's plot has to be transferred in his favour at the rate at which the original allotment was made. In the decision of the said writ petition, it was observed by this Court that the fixing of the price of the open space at the latest current rate is illegal, ultra vires and without jurisdiction. The petitioner in that case was allotted the land at Kurukshetra on 6.2.1976 and he made an application for allotment of the adjoining land basing on the resolution of the Board, but subsequent to the said resolution vide Annexure P-7, the HUDA changed its policy in the year 1987 vide its Memo No. A-11/87/7949-64 dated 19.3.1987. According to the same, the allottees have to pay the rate prevailing at the time of allotment of the additional land to the allottees and not at the rate which was charged at the time of original allotment.

6. The petitioner in the present case though allotted an industrial plot in the year 1983 did not make any application till 1987 for allotment of the adjoining land. At the time when he made the application, the guidelines issued in 1987 have

come into force. Therefore, I am of the opinion that the decision rendered by this Court in C.W.P. No. 10004 of 19888 has no application to the facts of the present case. If the petitioner wants the allotment of additional land which is adjoining to the land originally allotted to him, he should pay the market price that is prevailing at the time of allotment of the additional land. He cannot take advantage of the resolution which has been passed prior to the issue of the guidelines in the year 1987.

7. In this view of the matter, I do not find any merit in this writ petition and the same is, accordingly, dismissed. However, there will be no order as to costs.