

(2001) 05 P&H CK 0187

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13876 of 1998

Smt. Sheo Wanti and others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 08-05-2001

Acts Referred:

Punjab Town Improvement Act, 1922 — Section 36

Citation : (2002) 3 RCR(Civil) 262

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : H.C. Garg, for the Appellant; Ashok Devgan, for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—On April 21, 1975, the Petitioner purchased a piece of land measuring 400 square yards. On August 8, 1976, the Ludhiana Improvement Trust issued a Scheme for acquisition of the land. It was actually acquired thereafter and the award was given in the year 1980. The compensation in lieu of the land was paid to the Petitioner in the year 1981. She has now approached this Court after a lapse of 18 years, with the prayer that a writ in the nature of mandamus be issued, directing the Respondents to allot her a plot, measuring 300 square yards. This claim has been made on the basis that the Petitioner falls within the ambit of a "Local Displaced Person", as defined in the Rules published vide notification dated September 18, 1975.

2. The Respondent-Trust contests the Petitioner's claim on a two-fold basis. Firstly, it is alleged that the Petitioner does not fall within the definition of a Local Displaced Person. Secondly, it has been stated that the writ petition has been filed after an inordinately long delay of 18 years. It should, thus, be dismissed on that ground. It is also alleged that the Petitioner has not approached the Court with clean hands. She had not applied for the allotment of a plot under the Scheme at the relevant time. She had submitted the application in the year

1992, before which all the allotments had already been made.

3. Mr. Garg Learned Counsel for the Petitioner contends that the application had been filed on October 12, 1976. The Petitioner was eligible. The Respondent-Trust had failed to make the allotment. Thus, the relief, as prayed for should be granted.

4. The claim has been controverted by the Learned Counsel for Respondent No. 2.

5. The short question that arise is: Does the Petitioner fall within the category of a Local Displaced Person?

6. The-expression "Local Displaced Person" has been defined as under:

Local Displaced Person" means a person who is the owner of a property acquired by the Trust for the execution of a Scheme and has been such owner for a continuous period of two years immediately before the first publication of the Scheme by the Trust u/s 36 of the Punjab Town Improvement Act, 1922.

7. A perusal of the above provision shows that a person has to be in continuous possession as an owner of the land for a period of two years immediately before the first publication of the Scheme by the Trust, so as to be eligible to claim any benefit under the Rules. The Petitioner had admittedly purchased the land on April 21, 1975. The scheme was published for the first time on August 8, 1976. The Petitioner had not been in continuous possession as an owner of the premises for a period of 2 years. Thus, she did not fall within the definition of a Local Displaced Person, Consequently, she was not entitled to claim any benefit regarding the allotment of the plot.

8. Mr. Garg contends that the Trust had framed The Ludhiana Improvement Trust Land Disposal Rules, 1964 (in short to be called "the 1964 Rules"). According to these Rules, it was not necessary for a person to be an owner in possession for a period of two years. Thus, the Respondents cannot rely upon the definition as given in the Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975 (hereinafter to be referred as "the 1975 Rules").

9. A perusal of Section 73 of the Punjab Town Improvement Act, 1922 shows that the State Government has been given the powers to make the Rules. The power of the Trust u/s 74 is subservient to the provisions of the Act and the Rules framed by the State Government. In case of a conflict between the Rules framed by State Government, the Rules u/s 73 shall have an over-riding effect. It is the admitted position that the State Government has framed Rules u/s 73. The Rules framed by the Trust have to conform to the requirements of the Rules framed by the State Government, in case of a conflict, the Rules framed by the State Government have to prevail. Resultantly, the Petitioner is not entitled to claim any benefit under the 1964 Rules.

10. Even otherwise, we find that the Petitioner's land measuring 400 square yards was acquired. She was paid compensation in the year 1981. She has

approached this Court after a long lapse of 18 years. There is no equity in her favour.

11. Mr. Garg contends that in the year 1992, the Trust had invited applications for the allotment of plots to the Local Displaced Persons.

12. Mr. Devgan points out that these applications were invited against a different category.

13. No other point has been raised.

14. In view of the above, we find no merit in the writ petition. Resultantly, it is dismissed with costs. The costs are assessed at Rs. 5,000/-.

Sd/- N.K. Sud, J.