
(2009) 09 P&H CK 0132
In the Punjab And Haryana At Chandigarh

Yogesh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 17-09-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2009) 156 PLR 652 : (2009) 4 RCR(Civil) 626 : (2010) 1 RCR(Civil) 804

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Judgement

Jasbir Singh, J.—This order will dispose of 10 writ petitions bearing Nos. 17494, 17514, 17515, 17519, 17520, 17568, 17578, 17579, 17638 and 17678 all of the year 2008, involving common questions of law and facts. To dictate order, facts are being taken from CWP No. 17494 of 2008.

2. This writ petition has been filed to lay challenge to an order dated 28.02.2007 (P-7) rejecting claim of the petitioners for allotment of a plot under the "Oustees Quota".

3. It is apparent from the records that to acquire land of the petitioners, notification u/s 4 of the Land Acquisition Act, 1894 (in short, "the Act") was issued on 17.04.1989. It was followed by a notification u/s 6 of the Act and, ultimately, after passing of the award, possession was taken over by the State of the acquired land.

4. It is case of the petitioners that as per policy dated 18.03.1992, (modifying the earlier policy dated 10.09.1987), the petitioners were eligible to get allotted plots, reserved for the land owners whose land was acquired compulsorily, by the State of Haryana. Record reveals that the petitioners moved an application, for allotment of plots, as mentioned above, in the year 2006.

5. When no action was taken, the petitioners came to this Court by filing CWP No. 14654 of 2006, which was disposed of on 14.09.2006 by observing as under:

In view of the matter, without going into the merits of the claim made by the petitioners and without expressing any opinion on their eligibility, we dispose of the present petition with a direction to the Estate Officer, HUDA, Gurgaon, respondent No. 3 to take a final decision on the aforesaid application (Annexure P.6) within a period of four months from the date a certified copy of this order is received, by passing a detailed and speaking order, and keeping in view the law laid down by this Court in various authorities and also various policies framed by the State Government from time to time

6. In response thereto, the Estate Officer, HUDA, Gurgaon passed an order on 28.02.2007, which is under challenge in this writ petition. To decline claim of the petitioners, for allotment of plot, it was observed as under:

(1) The petitioners/applicants failed to apply in Sector 55-56 at the time of its flotation in 1992 in which his part land was acquired, as per oustees policy guidelines which were widely published in leading newspapers.

(2) In April 2004, again balanced plots were re-floated along with of other sectors, inviting applications from oustees as well, through widely published advertisement, clearly mentioning that oustees case would be settled first and many such cases of oustees were settled in response to that Advertisement who had applied in time.

(3) The applicants/petitioners failed to deposit the earnest money i.e. 10% cost of the plot along with the application for allotment of plot in prescribed performa under the oustees policy on two given opportunities in the year 1992 to 2004. After considering the fact I am of the considered view that the petitioners after the acquisition of their land failed to apply for allotment of the oustees quota plot with earnest money in the sector 55-56, where their land was acquired. Also the petitioners failed to fulfill the condition laid down in the policy of the HUDA for allotment of plot under the oustees policy as per detail mentioned above. Thus they are not entitled for allotment of plot under the oustees policy.

7. In this writ petition, the petitioners have prayed for the relief of setting aside the above said order Annexure P-7 and allotment of plots as per the State policy. To claim the above said relief, reliance has been placed upon policy of the HUDA, to allot plots to the oustees and special stress has been laid at Clauses (i) and (iv) of that policy, which found mentioned in the impugned order and reads thus:

(i) The plot of oustees would be offered if the land proposed to be acquired is under the ownership of oustees prior to the publication of the notification under section-4 of Land Acquisition Act and if 75% or more of total land owned by the land owner in the sector is acquired.

(iv) The Estate Officer concerned shall invite the claim through press/newspaper for allotment of plot under the oustee's policy much before floatation of sector. Each applicant would be required to send the application in prescribed Performa along with supporting documents and earnest money equivalent to 10% of cost

of the plot of the sector in question.

8. It is contention of counsel for the petitioners that at no time, applications were ever invited from the land owners, whose land was acquired, for allotment of plots to them. In the impugned order and the reply filed, it is specifically mentioned that the applications were invited in the year 1992 and, thereafter, in the year 2004 for allotment of plots to the oustees, however, the petitioners failed to apply against those advertisements and, accordingly, their case was rejected.

9. Perusal of the paper book shows that copy of the advertisements have not been placed on record. Only the communication, vide which matter was referred to the newspapers etc. for advertisement, has been put on record. It is not coming out from the averments in the written statement, as to when advertisements appeared in the newspapers and what was the contents of those advertisements. It is also not coming out from the records that ever separate applications were invited from the oustees, for allotment of plots to them.

10. After hearing counsel for the parties, this Court is of the opinion that these disputed facts can be better sorted out by referring the parties to take up the matter before the "Oustees Adalat", which was constituted under order dated 29.11.2006 passed by this Court in C.W.P. No. 15433 of 2006 titled as "Amar Singh v. HUDA and Ors.".

11. In view of above, these writ petitions are disposed of by giving liberty to the petitioners to approach the "Oustees Adalat". If any application is moved within three weeks from today, the Oustees Adalat will decide the same within 2 months thereafter and will give a specific finding as to whether, after acquisition of land of the petitioners, applications were ever invited by the authorities for allotment of plot to the oustees, in terms of the policy on which reliance has been placed and which is found mentioned in the impugned order Annexure P-7.

12. The Oustees Adalat will also give a specific finding and may refer to the contents of the advertisements, alleged to have been published by the respondents, to say that as to what was the last date of moving application(s) and for which sector. If it is established that no such application was ever invited by the authorities, then the Oustees Adalat will decide claim of the petitioners in terms of the policy, under which they are claiming the relief. The Oustees Adalat will also look into validity or otherwise of the impugned order Annexure P-7.

Disposed of.