

DP No.-

Status Dismissed

W-10

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

To,

*Order -
26/8/14
29/9/14*

- 1) Haryana Urban Development Authority (in short HUDA) through its Chief Administrator, Sector 6, Panchkula.
- 2) The Administrator, Haryana Urban Development Authority, Rohtak.
- 3) The Estate Officer, Haryana Urban Development Authority, Rohtak.

*25/8/14
29/9/14*

Subject:- Civil Writ Petition No. 9969 of 2013
Ragbhir Singh

*1 Good Judgment
is entered in
all Punjab
High Court & (M)*

Petitioners

Versus

Haryana Urban Development Authority and others

Respondent(s)

Sir,

35

In continuation of this Court's order dated 26.08.2014 I am directed to forward herewith a copy of Order dated 26.08.2014 passed by this Hon'ble High Court in the above noted Civil Writ Petitions, for immediate strict compliance alongwith copy of

BY ORDER OF HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Given under my hand and the seal of this Court on this 1st day of September 2014.



Superintendent (Writ)

For Assistant Registrar (Writ)

29/9/14



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION No. 9969 of 2013

Raghbir Singh son of Sh. Phool Singh, resident of VPO Bohar, Tehsil and District
Rohtak.

..... Petitioner

Versus

1. Haryana Urban Development Authority (in short HUDA) through its Chief
Administrator, Sector 6, Panchkula.
2. The Administrator, Haryana Urban Development Authority, Rohtak.
3. The Estate Officer, Haryana Urban Development Authority, Rohtak.

..... Respondents

7

Petition under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari quashing the impugned action of respondents in charging higher rate of plot at Rs. 10,714/- per sq. mtr. vide allotment letter dated 14.3.2012 (Annexure P-4) being illegal, null and void, arbitrary and discriminatory and against the directions given by this Hon'ble Court vide judgment dated 1.6.2011 (Annexure P-2) and order of oustees adalat (Annexure P-1) and also against the oustees policy dated 7.12.2007 (Annexure P-5) as the oustees are to be allotted plot at the same rate which is being charged by the respondents at the time of floating of said sector and a writ in the nature of mandamus directing the respondents to charge the rate of the plot allotted to the petitioner vide allotment letter dated 14.3.2012 (Annexure P-4) at the rate of Rs. 6600/- per sq. mtr. and further directions to the respondents not to recover the amount above the price of said plot i.e. Rs. 29,70,000/- being the total price as per prospectus of the Sector 4 (Ext.), Rohtak at the rate of Rs. 6600/- per sq. mtr. for a plot measuring 450 sq. mtr.; and

AND/ OR

And for issuance of any other writ, order or direction which this Hon'ble High Court may deem just fit and proper in the facts and circumstances of the present case.

Respectfully Showeth:-

1. That the petitioner is permanent resident of State of Haryana and hence being citizen of India is competent to invoke the extra-ordinary writ jurisdiction of this Hon'ble High Court under Articles 226/227 of the Constitution of India for

CWP No. 9969 of 2013

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9969 of 2013

Date of Decision : 26.8.2014

Raghbir Singh

Versus

..... Petitioner

Haryana Urban Development Authority and others Respondents

CORAM: HONBLE MR. JUSTICE HEMANT GUPTA
HONBLE MR. JUSTICE KULDIP SINGH

Present:- Mr. S.P. Chahar, Advocate, for the petitioner.

Mr. Raman Gaur, Advocate, for respondents.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

HEMANT GUPTA, J. (ORAL)

Challenge in the present writ petition is to the rate of Rs. 10,714/- per sq. mtr. in respect of plot measuring 450 sq. mtr. allotted to the petitioner on 14.3.2012. The petitioner has sought intervention of this Court to charge rate at the rate of Rs. 6,600/- per sq. mtr. and not to recover the amount over and above the said rate.

The claim of the petitioner is based upon an earlier writ petition filed by the petitioner on 1.6.2011, wherein a direction was issued that petitioner should be allotted a 500 sq. yd. plot within two weeks. It was in pursuance of such direction, after contempt petition was filed, a letter of allotment was issued on 14.3.2012, allotting 450 sq. mtr. plot at

CWP No. 9969 of 2013

-2-

the rate of Rs. 10,714/- per sq. mtr. The petitioner accepted the said offer when the amount of Rs. 12,05,335/- was deposited within 30 days. It is thereafter the petitioner had approached this Court, challenging the rate of allotment.

The issue as to at what rate the plots can be allotted has been examined by a Division Bench of this Court in LPA No. 2096 of 2011, titled as Haryana Urban Development Authority and others Versus Sandeep and others, decided on 25.4.2012, wherein it has been held that the price that can be charged is the price prevailing at the time of allotment. The relevant extract from the judgment reads as under :-

"It is argued by learned counsel for the appellant that the price, applicable on the date of allotment, is chargeable from an allottee and not the price, which was once fixed at the time of floatation of sector. It is contended that price of the plots keep varying keeping in view the cost of acquisition, development work and other numerous factors which go into determination of the price. It is contended that the judgment of Hon'ble Supreme Court in Brij Mohan's case (supra) is of no help to the oustees. In the said case, the appellant was not allotted plot when HUDA offered residential plots in Sector - 4, Karnal. The two questions arose for consideration before the Hon'ble Supreme Court. In respect of first question i.e. whether HUDA should charge only the actual land cost plus development charges for the plots allotted to an oustee and not the market price/normal allotment price; the Court returned a finding that the Land Acquisition Act, 1894 contemplates only benefits like solatium, additional amount and higher rate of interest to the oustees and not allotment of plots at cost price. HUDA or the State Government does not have any scheme providing for allotment of plots at actual cost of oustees. Therefore, it is not possible for the Court to direct the State Government or the Development Authority to allot plots to the oustees at a reasonable cost.

It was held to the following effect:

"17. Where there is a scheme, but it does not regulate the allotment price, it may be possible for the court to direct the State Government/Development Authority to allot plots to land-losers at a reasonable cost, and in special and extraordinary circumstances, it may also indicate the manner of determining the allotment price. But where the scheme applicable specifies the price to be charged for allotment, its terms cannot be ignored. If any land-loser has any grievance in regard to such scheme, he may either challenge it or give a representation for a better or more

beneficial scheme. But he cannot ask the court to ignore the terms of an existing or prevailing scheme and demand allotment at cost price."

In respect of second question i.e. what is the meaning of the words "normal allotment rate", the Court found that as a matter of fact the land-loser has made an application in the year 1990 for allotment of plot. A direction was issued by the Court in the year 1992, but the HUDA delayed allotment to the appellants. Therefore, the rate for which plots were initially offered was ordered to be charged. The said question has been answered keeping in view the facts of the aforesaid case, wherein application was submitted by an oustee, but still plot was not allotted to him. The said judgment does not lay down that the 'normal allotment rate' in all circumstances shall be the date when the sector is first floated for sale. As a matter of fact, the normal allotment rate would be the rate advertised by the HUDA in pursuance of which applications are invited from the general public and the oustees, in pursuance of which the plots are allotted."

In view of the said fact, the price mentioned in the letter of allotment, prevailing at the time of allotment cannot be said to be illegal or unjustified. In addition, it may be noticed that the petitioner having accepted the rates offered in the allotment letter cannot be permitted to dispute the rate charged after accepting the offer.

Accordingly, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE



(KULDIP SINGH)
JUDGE

sd.

26.8.2014
sjks

Revised
4/9/14

PUNJAB AND HARYANA HIGH COURT