argument or evidence than the parties can adduce at once is required for the decision of such issue. This requirement also points out that the provisions of the said rule 3 can be invoked only soon after the framing of the issues but before the suit is adjourned for the evidence of the parties.

(6) In view of the above discussion, I find no merit in these petitions and the same are hereby dismissed but without any order as to costs. The parties, through their counsel, have been directed to appear in the trial Court on July 23, 1979.

S.C.K.

Before S. S. Sandhawalia, C.J. and G. C. Mittal, J.

MADAN LAL and another,—*Petitioner.*

versus

STATE OF PUNJAB and another,—*Respondents.*

Civil Writ No. 1447 *of* 1976.

July 2, 1979.

Punjab Urban Estates (Development and Regulation) Act (22 *of* 1964)—*Sections* 2(*i*) & (*j*) *and* 3(2)—*Punjab Urban Estates (Sales of Sites) Rules* 1965—*Rules* 3, 5(3) *and* 7—*Allotment of Plots in an Urban Estate—Applications invited—Applicants depositing tentative price in accordance with the advertisement assured allotment—Government subsequently changing policy making only smaller plots available for allotment—Applicants—Whether entitled to allotment and possession of plots of the size applied for—Rule of promissory estoppel—Whether applicable.*

Held, that rule 3 of the Punjab Urban Estates (Sales of Sites) Rules, 1965 clearly indicates that two modes are provided for the transfer of sites and these are by auction or allotment. So far as the right to the allotment of a plot is concerned it is evident that the primary statutory provision from which it can possibly flow is sub-rule (3) which on its plain language, prescribes that the State Government may allot a site of the size applied for provided all other conditions are satisfied. Herein, there is neither a mandate nor any obligatory public duty cast upon the State Government to do so

and therefore, no mandamus directing the State to allot plots to the applicants in the Urban Estate can be issued. (Paras 8, 9 and 10)

Held, that the statutory rules governing transfer of sites nowhere provide for any transfer of plot on a cash-down basis nor for the automatic finalisation of the contract on this being done. The invitation to make offers on these premises by an advertisement in the press is, therefore, admittedly outside the scope of the statutory rules. Rule 5(3) in terms provides that the offer on behalf of the State Government must first be intimated to the applicant by registered post by giving the number, dimensions, area and tentative price or final price of the site to be intended to be allotted to him. Where this is not done and no allotment order for any specific or numbered plot was ever issued to any of the applicants, impossible hurdle arises in their way in seeking a mandamus under the rules. Again in the absence of a valid allotment order, rule 7 cannot even remotely come into play and a plain reading of clause (a) thereof would show that the possession is to be delivered within three months of the issue of the allotment order to the applicant. It is obvious that unless and until a particularised plot with fixed dimensions and identity with a specific tentative price has finally been made the subject matter of allotment order in favour of the applicant, no possible question of the delivery of possession to him can arise. The claim of the applicants for a mandamus under rule 7 is, therefore, equally unfounded and far fetched. (Para 13).

Held, that an advertisement inviting applications for allotment of plots cannot possibly be construed any higher than an invitation for offers on behalf of the State with regard to a large number of plots carved out in the Urban Estate and in response thereto, the applicants can, at best be said to have made an offer by complying with the said invitation. That would not by itself create either a promise or a contract, because it is well settled that only an acceptance in categorical and unequivocal terms can lead to a binding or an enforceable promise. The cardinal thing, however, on which the equitable doctrine of promissory estoppel rests is that on the basis of the alleged promise, the promisee must have necessarily acted thereon. Where long before the issuance of an assurance for allotment, the applicants had done all, upon which they wish to rest themselves, namely, to tender money purporting to be the total tentative price of the plots there is no further elaboration of the position or an irreversible action or change made by them on the basis of the assurance upon which an irrevocable equitable right in the shape of a promissory estoppel could be claimed. Moreover, in the face of mounting and unending pressure on urban land and in pursuance of an avowed welfare and socialistic policy, the Government as a matter of principle could restrict the largest sized residential site in all urban estates within the whole of the State.

Therefore, there was an adequate case to deviate from the earlier policy of allotment in the larger public interest. (Paras 16 and 17).

Sangat Singh vs. *Union Territory Chandigarh and another* 1976 P.L.R. 404. OVERRULED.

Petition under Articles 226/227 of the Constitution of India praying that :—

(a) *a writ of Mandamus ordering the respondents to withdraw the letter dated 20th November, 1974 (Annexure P2) and deliver the possession of two-kanal plot to the petitioner forthwith ; or*

(b) *in the alternative if for one reason or the other two-kanal plot cannot be made available immediately, two contiguous one-kanal plots be allotted and possession be delivered to the petitioners in lieu of the price already paid by the petitioners to the respondents ;*

(*ii*) *a writ in the nature of Mandamus or any other writ, order or direction be issued which this Hon'ble Court deem fit and proper under the circumstances of the case.*

(*iii*) *the filing of certified copies of Annexure P1 and P2 be dispensed with.*

(*iv*) *costs of the petition also be awarded.*

H. L. Sibal, Senior Advocate with S. P. Gupta, *for the Petitioners.*

I. S. Tiwana, Additional A.G. Punjab, *for the Respondents.*

JUDGMENT

S. S. Sandhawalia, C.J.

(1) In this set of 24 Civil writ petitions, the points of fact and law are utterly identical and the learned counsel for the parties are agreed that this judgment would cover all of them.

2. In view of the identity of the facts, it suffices to advert to those in Civil writ petition No. 1447 of 1976 *Madan Lal* v. *State of Punjab* in which the main arguments were addressed by Mr

H. L. Sibal whilst the other learned counsel virtually rested themselves content by adopting the same.

3. The primary claim herein is to the title and possession of a two-*kanal* plot by the petitioners in the Bhatinda Urban Estate and the sale of sites therein is averred to be governed by the Punjab Urban Estates (Development and Regulation) Act, 1964 and the Punjab Urban Estates (Sales of Sites) Rules, 1965 framed thereunder. It is averred that respondent No. 2, the Estate Officer invited applications with earnest money of 10 *per cent* regarding the allotment of two-*kanal* plot — plots in the urban estate aforesaid under Rule 5 of the Rules above mentioned. The petitioners submitted an application along with a Demand Draft dated 28th of October, 1971 for a sum of Rs. 2,500/- for the allotment of a two-*kanal plot*. Apparently, much later on the 26th of February, 1972, respondent No. 2 is alleged to have put in an advertisement in the 'The Tribune', in the following terms :—

> "The allotment of residential plots of one-*kanal*, 10 *marlas* and 7½ *marlas* in the Urban Estate, Bhatinda, will be made by draw of lots on 28th February, 1972 at 11 A.M. in the premises of Deputy Commissioner's Office, Bhatinda.
>
> Two-*kanal* plots will be sold on cash down basis. Intending purchasers including those who have already applied should send their applications along with bank draft of Rs. 25,000 representing tentative price of the plot, drawn in favour of Estate Officer, Urban-Estates, Punjab, Chandigarh to Smt. Susheel Gupta, Executive Magistrate, Bhatinda or to the undersigned by 15th March, 1972".

In response to the said advertisement, the petitioners forwarded a sum of Rs. 22,500/- by a Demand Draft with a covering letter to the Estate Officer. It is the claim that thereby the full consideration for a two-*kanal* plot was duly despatched in accordance with the advertisement. It is then claimed that the respondents accepted the aforesaid amount and took a decision for the allotment of a plot in favour of the petitioners which was conveyed to them,—*vide* annexure P/1, whereby they directed to comply with the conditions specified in the same. In accordance therewith the petitioners submitted their affidavit and also a letter of acceptance and claim to have complied with the requisite formalities desired by the Estate

Officer. On this basis, the petitioners claim that a complete contract was established between the petitioners and the respondents for the allotment of a two-*kanal* plot in the Urban Estate of Bhatinda. It is averred that thereafter the petitioners were entitled to secure possession of such a plot in accordance with Rule 7, but nevertheless the same was inordinately delayed despite repeated enquiries and demands made by them. Instead, they received a communication (annexure P/2) dated the 20th of November, 1974, desiring them to intimate whether they were willing to accept a one-*kanal* plot instead of a two-*kanal* plot and if so, to intimate their acceptance within 15 days. The petitioners, however, insisted on their claim of a two-*kanal* plot and despite repeated reminders and communications no further action was taken by the respondents. On these facts, the petitioners assail the validity of annexure P/2 and seek the ultimate relief of a *mandamus* for the delivery of the possession of a two-*kanal* plot to them forthwith and in the alternative, if for one reason or the other, a two-*kanal* plot cannot be made available immediately then two contiguous one-*kanal* plots be allotted and possession be delivered in lieu of the price already paid.

4. In the return filed by the Estate Officer, Urban Estates, Punjab, the broad factual position is not denied with the clarification that the price mentioned in the advertisement in The Tribune was only tentative and was liable to revision. However, the firm stand taken is that no complete contract took place between the parties and the same could arise only on the issuance of a valid allotment order under the Act and the Rules and since admittedly no such allotment order was issued there was no question of delivering possession. It is stated that Rule-7 can be invoked only on the pre-condition that there is an allotment order.

5. The basic stand of the respondent-State is that whilst as yet the matter of the allotment to the petitioners was under consideration, the State Government arrived at an over-all policy decision that no plot carved out in any Urban Estate should exceed the size of 500 square yards. It was in accordance with this decision that the petitioners along with other applicants for two-*kanal* plots, were asked to intimate their willingness to accept allotment of one-*kanal* plots instead of a two-*kanal* one. It has been repeatedly reiterated that till the issuance of the allotment order,

no legal title or right of possession at all vested in the petitioner. With regard to the rationale underlying the policy decision to limit residential plots in urban estates to 500 square yards, it has been averred as follows in para-18 of the return:—

> "18. Denied. The Government have inherent right to revise the policy keeping in view the circumstances. The revised policy that the maximum size of a plot to be carved out in any Urban Estate would not exceed 500 square yards was based on the realisation that with rapid Urbanization and ever increasing pressure on land, it would be irrational to allow large sized plots for the construction of individual residential units. It was in pursuance of this revised policy that the petitioner,— *vide* letter annexure P/2 to the writ petition was requested to intimate if he was willing to get a one-*kanal* plot instead of a two-*kanal* plot. Moreover, no right has accrued to the petitioner as the offer as sent by him had neither been finally accepted nor any allotment order issued to him."

Lastly, the stand is that the matter being patently contractual, a civil suit is the only proper remedy under the facts and circumstances alleged by the petitioners.

6. Now it is plain that the primary and basic claim on behalf of the petitioners is a *mandamus* directing the respondents to allot a two-*kanal* plot to each of the petitioners in the Urban Estates in Bhatinda and as a necessary consequence thereof to deliver possession of the same to them. It is settled law that to seek such a relief the petitioners must show a clear public duty laid upon the respondents and a corresponding right vested in them to claim the performance thereof. Mr. H. L. Sibal, therefore, had necessarily to fall back upon the statute itself and the Rules framed. It was contended that thereunder the petitioners could lay claim both to title as well as to the possession of a two-*kanal* plot each. However, it appears to me that the learned counsel for the petitioners was only clutching at a straw in invoking some of the provisions of the statute and the rules whilst seeking a writ of *mandamus*.

7. Inevitably, one must first turn to the Punjab Urban Estates (Development and Regulation) Act, 1964. Section 2(i) thereof

defines a 'site' as the land which is transferred by the State Government under Section 3 and sub-section (j) then specifies that the word 'transfer' includes a sale or lease of a site or building under the same Section. Section 3(2) then provides for the transfer by auction, allotment or otherwise of land or building belonging to the State Government in an Urban Estate, on such terms and conditions as it may, subject to any rules made under the Act, think fit to impose. The material provisions, however, are of the Punjab Urban Estates (Sales of Sites) Rules, 1965, duly framed under the power conferred under Section 23 of the Act. Therein, reference in particular may be made to sub-sections 2(a) and (b) thereof which specify that without prejudice to the generality of the power to frame rules they may provide for the terms and conditions on which any land or building may be transferred by the State Government as also the manner in which consideration money for any transfer may be paid.

8. Now a reference to Rule-3 of the Punjab Urban Estates (Sale of Sites) Rules, 1965 (herein called the 'Rules') would clearly indicate that two modes are provided thereby for the transfer of sites and these are by auction or allotment. In the present case, admittedly, the transfer being not by auction, the specific provision which is directly attracted is Rule-5 and the relevant part thereof may first be read :—

> "5. APPLICATION FOR SALE BY ALLOTMENT.—(i) In case of sale by allotment the intending purchaser shall make an application to the Estate Officer concerned in the form (annexed to these rules as) given in Schedule "A".
>
> (2) No application under sub-rule (j) shall be valid, unless it is accompanied by ten per cent of the (tentative price or final price) in the form of a demand draft payable to the Estate Officer and drawn on any Scheduled Bank situated at the nearest place to the Estate concerned or at any other place which the Estate Officer may specify.
>
> (3) When ten per cent of the price has been tendered, the State Government or such authority as it may appoint in this behalf may allot a site of the size applied for.

Intimation of such allotment shall be given to the applicant(s) by registered post giving the number, dimensions, area and (tentative price or final price) of the site allotted.

9. Now so far as the right to the allotment of a two-*kanal* plot is concerned, it is evident that the primary statutory provision from which it can possibly flow is sub-rule (3) quoted above. On its plain language, it prescribes that the State Government may allot a site of the size applied for, provided all other conditions are satisfied. Therefore, herein, there is neither a mandate nor any obligatory public duty cast upon the State Government to do so. Since the matter is covered by authoritative and binding precedent so far as we are concerned, it is unnecessary to elaborate the point. An identical issue was sought to be raised before the Full Bench in *Surjit Singh and others* v. *State of Punjab, and others,* (1) on the basis of this very rule 5(3) and it was held as follows:—

> "The words 'may allot a site' cannot be read to mean 'shall allot a site' as that, in a given situation, can create such complications which may not be remediable. By filing an application in accordance with law, the applicant only gets a right of consideration of his application, but he does not get a vested right for allotment of the plot. The conditions laid down in the first scheme or the provisions of rule 5(3) do not give any right to the applicants to claim allotment of plots as a matter of right. There is nothing in the scheme or the Act or the Rules which requires the adoption of the principle of 'first come first served' at the time of allotment, or debars the Government from adopting the method of drawing lots. The petitioners have not been able to lay foundation for establishing their right which could legally be enforced and the petitioners have completely failed to make out a case for the exercise of our extra-ordinary jurisdiction under Article 226 of the Constitution of India."

10. We are bound by the aforesaid enunciation of the law and it is plain therefrom that no *mandamus* of the kind sought for on behalf of the petitioners can be issued. In that, event perhaps little else arises for determination.

(1) I.L.R. 1979 (1) Pb. & Haryana 178.

11. Nevertheless, in fairness to the learned counsel for the parties, it becomes necessary to notice some of the other contentions advanced on their behalf. Having been conclusively repelled under rule-5 aforesaid, counsel had lowered his sights and attempted to fall back on the provisions of rule-7. In order to appreciate the contention, rule-7 may first be quoted for facility of reference:—

> ("7. DELIVERY OF POSSESSION.—The possession of the site shall be delivered to the Transferee after the payment of twenty-five per cent,—
>
> (a) in the case of sale by allotment, of the tentative price or final price and within three months of the issue of the allotment order to him; and
>
> (b) in the case of sale by auction, of the sale price referred to in sub-rule (2) of rule 4 and within three months of the date of the auction.)

12. Now, in order to determine the applicability or otherwise of the aforesaid rule, it becomes necessary to highlight the admitted factual position. In pursuance of the advertisement in the 'The Tribune', the petitioners and perhaps others had made a deposit of the total tentative price of a two-*kanal* plot and were merely informed,—*vide* annexure P-2/T that it had been decided to allot a plot to the petitioners provided they comply with certain pre-conditions in the said letter. Now the second thing is that neither the number nor the dimensions nor the particular area of each plot (undoubtedly a two-*kanal* plot could marginally vary on either side) and even the tentative or the final price of the same was ever remotely specified in any communication. Therefore, before the matter could achieve any reasonable degree of concretness a general policy decision was taken by the State that in view of the mounting and unending pressure on urban land in the whole of the State, no residential plots above an area of 500 squares yards or one-*kanal* were to be transferred in the State sponsored urban estates. Therefore, a fair enough offer was made to the petitioners in the light of this policy requiring them to intimate whether in accordance, therewith, they are willing to accept the largest sized one-*kanal* plot now possible for allotment. It was submitted on behalf of the respondent-State that the petitioners, however, wanted their pound of flesh in insisting on a claim of plots larger than laid down by policy and perhaps primarily motivated because with the

passage of time prices had sharply risen and they could, therefore, secure much more than their money's worth by laying claim to an area of two *kanal* or more.

13. Now the second thing therein is that the statutory rules governing transfer of sites nowhere provide for any transfer of plot on a cash-down basis nor for the automatic finalization of the contract on this being done. The invitation to make offers on these premises by the advertisement in the Tribune was, therefore, admittedly outside the scope of the statutory rules. Rule 5(3) already quoted and referred to in terms provides that the offer on behalf of the respondent—State must first be intimated to the applicant by registered post by giving the number, dimensions, area and tentative price or final price of the site to be intended to be alloted to him. This admittedly was never done. Equally, it is the admitted and undisputed position that no allotment order for any specific or numbered plot was ever issued to any one of the petitioners. Therefore, an impossible hurdle arises in the way of the petitioners in seeking a *mandamus* under the rules. Obviously, in the absence of a valid allotment order, rule-7 cannot even remotely come into play. A plain reading of clause (a) thereof would show that possession is to be delivered within three months of the issue of the allotment order to the applicant. It is obvious that unless and until a particularised plot with fixed dimensions and identity with a specific tentative price finally has been made the subject matter of an allotment order in favour of the applicant, no possible question of the delivery of possession to him can arise. What possession can possibly be delivered in such a situation is what one fails to visualize. Consequently to invoke rule-7, in the admitted absence of an allotment order appears to me as the proverbial case of putting the cart before the horse". Therefore, apart from the Full Bench authority in *Surjit Singh and others* v. *State of Punjab and others,* (supra) the claim of the petitioners for a *mandamus* under rule-7 seems to be equally unfounded and far fetched.

14. Rebuffed on the basic claim under Rule 5 and 7 the learned counsel for the petitioners had then sought to raise their claim on the rather slippery ground that even though there was no legal right vested in them neither a corresponding duty laid on the respondents, yet in fact they could secure the same relief on the basis of an alleged promissory estoppel. It was argued that having once suggested an allotment in their favour,—*vide* annexure P-1/T, the

respondent-State was bound to abide by it and take all the necessary steps to put it in a concrete shape. Reliance herein was primarily placed on the recent judgment of Their Lordships in *M/s Motilal Padampat Sugar Mills Co. Ltd.*, v. *The State of Uttar Pradesh and others*, (2). On its basis it was argued that the respondent-State could not be allowed to go back on its alleged suggestion of the allotment of a plot whether for reasons of policy or otherwise.

15. Herein again, the petitioners are confronted with a hurdle not possible to cross at least within this Court, on existing precedent. An identical argument and reliance on *M/s Motilal Padampat Sugar Mills Co. Ltd.* v. *The State of Uttar Pradesh and others*, (2), (supra), was made before a Division Bench in the context of the levy of House-tax in the city of Chandigarh. The Division Bench to which I was a party in *Des Raj Juneja* v. *Union of India* (2-A) held that *M/s Motilal Padampat Sugar Mills Co. Ltd.'s case* could not have pre-eminence over a long line of earlier precedents of the larger Benches of their Lordships themselves. Harbans Lal J., speaking for the Bench observed:—

> "Thus, according to the law laid down in *Ram Kumar's case* (4 supra), there can be no promissory estoppel or equitable estoppel against the Government, in the exercise of its sovereign, legislative or executive functions, whereas according to the ratio of the decision in *M/s. Motilal Padampat Sugar Mill's case* (supra), the Government while exercising its executive functions cannot claim immunity from this doctrine and is bound by its promises and assurances unless facts can be proved showing the overriding consideration of public interest and equity in its favour not to be hampered by estoppel arising from its provision. There appears to be apparent divergence of opinion regarding the scope and ambit of this doctrine of promissory estoppel between the two latest judgments of the Supreme Court. Faced with this delicate situation, this Court is called upon to chalk out a course for itself. The same depends on the answer to the question. The decision of which judgment is binding on the High Court as declaration of law as envisaged under Article 141 of the Constitution ?

(2) AIR 1979 S.C. 621.

(2-A) 1979 (1) I.L.R. Pb. & H. 388.

and then concluded—

> "In the present case, the decision in *Ram Kumar's case* (supra), wherein it was expressly held that there cannot be any promissory estoppel against the Government, while performing its sovereign, legislative and executive functions, is by a four-Judge Bench whereas the one in *Messrs Motilal Padampat Sugar Mill's case* (supra), is by a Bench of two Judges though the same is later in point of time. Keeping in view the dictum of law by the Supreme Court itself in the above-mentioned two decisions, I am bound by the law as laid down in *Ram Kumar's case* (supra)."

In view of the above Mr Sibal's repeated reliance on *Messrs Motilal Padampat Sugar Mills Co. Ltd.'s case* is, therefore, of no avail.

16. Again even assuming entirely for the sake of argument that *M/s. Motilal Padampat Sugar Mills Co. Ltd's* case holds the field on the legal aspect, it seems difficult, if not impossible, on the facts to spell out any firm promises on the part of the respondents to allot any specified two-*kanal* plot of precise dimensions, identity and price to any one of the petitioners or to infer the basic pre-requisite of a promissory estoppel on the facts of this case. Even a plain reading of the advertisement in the Tribune, which had been particularly relied upon on behalf of the petitioners would show that the same cannot possibly be construed any higher than an invitation for offers on behalf of the respondents with regard to a large number of plots carved out in the Bhatinda Urban Estate. In response thereto, the petitioners can, at best have made an offer by complying with the said invitation. That would not by itself create either a promise or a contract, because it is well settled that only an acceptance in categorical and unequivocal terms can lead to a binding or an enforceable promise. The cardinal thing, however, on which the equitable doctrine of promissory estoppel rests is that on the basis of the alleged promise, the promisee must have necessarily acted thereon. Whether such action must necessarily be to his detriment or otherwise, is perhaps a question into which it is unnecessary to delve. Herein, the admitted position is that even long before the issuance of annexure P-1/T, the

petitioners had done all, upon which they now wish to rest themselves, namely, to tender the money purporting to be the total tentative price of a two-*kanal* plot. Thereafter, there is no further elaboration of the position or any irreversible action or change made by the petitioners on the basis of annexure P-1/T upon which an irrevocable equitable right in the shape of a promissory estoppel could be claimed, Mr. I. S. Tiwana, therefore, was on solid ground in contending that the necessary factual pre-requisite of a promissory estoppel also have not been established on the record by any one of the petitioners.

17. In fairness to Mr Tiwana, his last argument in the context cannot, but deserve notice. It was submitted that even assuming everything in favour of the petitioners, yet the State on well considered reasons having made a change of policy to the effect that no residential plot in the urban estates was to be above the size of one-*kanal*, it could not be riveted to the earlier position by resort to the doctrine of promissory estoppel. Counter-attacking and relying on *State of Punjab, etc.* v. *Amrit Banaspati Company Limited, etc.*, (3), which was cited by the learned counsel for the petitioners, he highlighted the following observations in para-47 of the report:—

> "Again, a Government cannot bind itself or a succeeding Government, by an estoppel, to a fixed policy. The political dynamism of the State requires review and revision of policy and a Government must have the right at all times to change its policy. Accrued rights have to be honoured no doubt. But, no rights based on promissory estoppel can ever be considered to accrue which are against the public interest and opposed to the public policy or which affect the public revenues. No one can be permitted to take undue advantage of a representation made by a servant of the people and claim rights as against the people themselves and to their proven detriment, if such rights are not consistent with the public good. A rule of evidence such as equitable estoppel may not be invoked against the people and the State if it is shown to be against the general interest of the people and the State or against the advancement of their known social policy or if it affects

(3) 1977 Current Law Journal 442.

the public revenues. Precise definition of the limits is difficult as this branch of the law is yet evolving. Boundaries will have to be determined in individual cases with reference to the facts of the cases.'

On the aforesaid premises Mr. Tiwana submitted that in the face of mounting and unending pressure on urban land and in pursuance of an avowed—welfare and socialistic policy—it has now been decided as a matter of principle to restrict the largest sized residential site in all urban estates within the whole of the State of Punjab to one-*kanal* only. Counsel submitted that no fault could be found in such a decision, the objects of which were obviously laudable. Therefore, even on the extreme position, the respondent—State had made out an adequate case to deviate from the earlier policy of allotment of two-*kanal* plots in the larger public interest. It was submitted that even otherwise the respondent—State, acted in utmost fairness and had made an offer of the highest category of residential plots now available to the petitioners,—*vide* P-2/T which was eminently reasonable and also adequate notice of the new policy long before any finalization of the offer had been given. It was forcefully contended that the petitioners had neither acted to their detriment or in any way placed themselves in a position which was irreversible. Counsel submitted that the *status quo ante* can always be restored if the petitioners so desire either by the refund of the money offered by them or by the allotment of one-*kanal* plot each in accordance with the new existing universal policy within the State. I am inclined to take the view that even on this last point also, if necessary the Respondent—State is entitled to defend its position successfully.

18. All that now remains is to refer to two authorities on which some reliance was placed on behalf of the petitioners. *The Atamnagar Co-operative, House Building Society Ltd.* v. *The State of Punjab and others*, (4) is completely distinguishable on facts. Therein the petitioning society had been categorically promise the allotment of 200 residential plots by the Chairman of the Improvement Trust, Ludhiana. However, the whole scheme proved to be still-born, because at the instance of the landowner, whose land was sought to be acquired for the purpose, the High Court quashed the same on the ground that a period of more than three years had intervened between the time when the Trust issued the earlier notification to

(4) 1979 R.L.R. 190.

acquire the land and the second notification relating to the actual acquisition. Holding that a second scheme which was a replica of the first and had been prepared to overcome merely the said technicality, the Bench held that the Improvement Trust could not be allowed to take the benefit of its own wrong and negligence and deny allotment of the promised plots to the Society. It is obvious that the facts are materially different that these can be of little or no aid to the petitioners in the present case.

19. However, the Single Bench judgment in *Sangat Singh* v. *Union Territory, Chandigarh and another* (5), appears to us with respect contrary to the weight of binding precedent and to principle as well. Therein the Chandigarh Administration had merely prepared a scheme for the allotment of plots in Sector-38, Chandigarh for Indian citizens residing abroad. In pursuance of that scheme, the petitioner had only forwarded an application with 10 *per cent* of the price of the plot as earnest money seeking the allotment of a two-*kanal plot* therein. It appeared that the matter was considerably delayed in correspondence betwixt the parties and the Administration instead offered a one-kanal plot at a higher price to the petitioner. The petitioner, however, laid claim to the allotment of two-*kanal* plot at the original price which was allowed in the very peculiar circumstances of the case. The learned Single Judge seems to have been greatly influenced by the inordinate delay in finalizing the matter by the Chandigarh Administration and the reading of the judgment would disclose that this was the underlying reason for the grant of a writ in an exceptional hard case. Nevertheless, the learned Single Judge himself observed as follows:—

> "It was open to the Administration to reject the application and refund the earnest money if it was not in accordance with the scheme but it chose to keep mum for over 5½ years. The earnest money of Rs. 3,360 received by the Chandigarh Administration in February, 1969 is still lying with them."

It is evident from the above that the learned Single Judge seems to have himself held that no vested right arose in favour of the petitioner merely by putting in an application with earnest money. There is, however, no gain saying the fact that there are observations

(5) 1976 P.L.R. 404.

in the judgment to the effect that by the mere putting in an application with earnest money a vested right had inhered in the petitioner to a plot of two-*kanals* originally advertised by the scheme. With great deference it is not possible to accede to this as a proposition of law. A look at the provisions of that scheme seems hardly to leave any maner of doubt that an application for allotment of the plot was merely an offer to purchase a certain plot at a certain price by the applicant and the Administration would be within its right to accept or reject such an offer. Till such an offer was irrevocably accepted and an allotment made, in our view no vested legal right would arise in favour of the petitioner. This appears to us as plain on principle and is further buttressed by the Full Bench judgment of this court in *Surjit Singh and others* v. *State of Punjab and others* (Supra) referred to earlier, in which it has been held in categoric terms that by filing an application with earnest money, the applicant can at best get a right of the consideration of the application, but does not get a vested right for allotment of the plot. The view of the learned Single Judge on this point is thus obviously contrary to the later Full Bench.

20. Again as regards the observations of the learned Single Judge, in the said case on the point of promissory estoppel, these also run contrary to what has been held in the recent Division Bench Judgment in *Des Raj Juneja* v. *Union of India* (supra). For all these reasons, it appears that Sangat Singh's case has not laid down the law correctly and is hereby over-ruled.

21. For the aforesaid reasons, I am unable to find any merit in this set of Writ petitions which are hereby dismissed. The parties, however, are left to bear their own costs.

G. C. Mital, J.—*I agree.*

N.K.S.

Before Surinder Singh, J.

BALBIR SINGH,—*Petitioner.*

versus

STATE,—*Respondent.*

Criminal Revision No. 26 of 1978.

July 10, 1979.

Opium Act (1 *of* 1878)—*Section* 11—*Confiscation of the conveyance used for carrying opium—Whether mandatory.*