
(21) For the reasons recorded above, we allow the writ petition and quash the notice dated 27th April, 2000 Annexure P-8, order dated 30th June, 2000 Annexure P-9 and also Annexures R4/2 dated 17th April, 2000 and R4/4 dated 28th June, 2000. It is also made clear that this order of ours will not debar respondent No. 3 - the Registrar, Cooperative Societies, Punjab, Chandigarh from starting the process *de-novo* in accordance with the Act.

R.N.R.

Before G.S. Singhvi & Nirmal Singh, JJ

JAGJIT KAUR.,—*Petitioner*

versus

STATE OF PUNJAB & OTHERS., —*Respondents*

C.W.P. NO. 12183 OF 2000

11th September, 2000

Punjab Urban Estate (Development & Regulations) Act, 1964—S.3(1)—Punjab Urban Estate (Sale of Sites) Rules, 1965—RIs. 2(aa), 2(e), 4 & 5-A—Allotment of plot at a provisional price—At the time of allotment no determination of price made or approved by the Government—Nature of demand made in memo not ‘additional price’ but ‘tentative price’—Provisional price, ‘tentative price’ and ‘additional price’ distinction—Simply because the petitioner deposited the ‘additional price’ on account of enhanced compensation, she cannot be absolved from her liability to pay the difference between the ‘provisional price’ and the ‘tentative price’—Tentative price is not synonymous with the provisional price—Petitioner has no right to challenge the demand having agreed to the terms and conditions and is liable to pay the tentative price determined and approved by the Government—Writ dismissed.

A perusal of Rules 2(aa), 2(e), 4 and 5-A of the 1965 Rules shows that the tentative price means the price determined by the State Government from time to time in respect of a sale of site by allotment and while doing so, the Government has to take into consideration various factors including the amount of compensation awarded by the Collector under the Land Acquisition Act, 1894 for the land acquired by it. The phrase

additional price has been defined as the price determined by the State Government having regard to the enhanced compensation payable to the land owners in pursuance of the award passed by the Court on a reference made u/s 18 of the 1894 Act and the amount of cost incurred by the State Government in respect of such reference. The sale price is the price payable in respect of an allotment of sale.

(Para 5)

Further held, that a look at the allotment letter issued to the original allottee shows that the price mentioned therein was provisional price and not the tentative price and he was told in unequivocal terms that the tentative price would be intimated after its approval by the Government. After 4 years, the authorities had issued memo dated 24th June, 1991 for payment of tentative price determined by the Government. The petitioner is not only bound by the terms & conditions stipulated in the allotment letter issued in favour of the original allottee but also the memo dated 24th June, 1991. The fact that she had undertaken to pay all the dues is discernible from the terms of re-allotment letter conveyed to the petitioner. Therefore, at this belated stage, she cannot directly or indirectly challenge the memo dated 24th June, 1991 issued by the authorities to the original allottee to pay the instalments of tentative price.

(Paras 8 & 9)

MS. MADHU P. SINGH, Counsel for the petitioner.

JUDGMENT

G.S.SINGHVI, J

(1) This is a petition for quashing of the memo dated 15th October, 1999 (Annexure P.13) issued by the Estate Officer, Punjab Urban Planning and Development Authority, Mohali (respondent No. 3) requiring the petitioner to pay the dues of instalments of tentative price in respect of the plot which was allotted to her in 1994 in pursuance of the transfer application filed by Shri Malagar Singh, Sub-attorney of Shri Balbir Singh, the original allottee.

(2) A perusal of the record shows that,—*vide* memo Annexure P.1 dated 27th February, 1987, Plot No. 1281 measuring 250 square yards in Sector 70, Urban Estate, SAS nagar (Mohali) was allotted to Shri Balbir Singh on a provisional price of

Rs. 58, 125 with a stipulation that tentative price of the plot would be intimated after its approval by the Government. After about 2 years and 4 months, the Estate Officer, Urban Estates, SAS Nagar,— *vide* memo Annexure P.4 dated 21st June, 1989 acknowledged the deposit of total provisional price by Shri Balbir Singh and informed him that he will have to pay the additional price, if any, determined by the Government. After another 2 years, the Estate Officer, Urban Estates, SAS Nagar,— *vide* memo Annexure P.5 dated 24th June, 1991 informed Shri Balbir Singh that the price of the plot has been determined at Rs. 1,36,827.60 and, therefore, he should pay the balance price amounting to Rs. 78,702.60. It, however, appears that instead of paying the price determined by the Government, Shri Balbir Singh, through his sub-attorney sold the plot to the petitioner in the year 1994. The application for transfer of the plot submitted by the sub-attorney was accepted by the Urban Estates Department and to this effect, memo dated 26th April, 1995 was sent to the petitioner by the Estate Officer, Urban Estates, SAS Nagar along with the re-allotment letter. In the meanwhile, the price of the plots allotted by the Urban Estates Department was increased on account of payment of enhanced compensation to the land-owners and in pursuance of the notice Annexure P.10 issued by respondent No. 3, the petitioner deposited the enhanced price,—*vide* demand draft No. 214454, dated 2nd September 1994. After 5 years, respondent No. 3 issued the impugned memo requiring the petitioner to deposit the instalments of tentative price. The representation made by her against the demand of tentative price was indirectly rejected by the said respondent,—*vide* letter Annexure P.15.

(3) Learned counsel for the petitioner relied on the judgment of this Court in *D.S. Longia v. State of Punjab and others*, (1) and argued that the authorities of PUDA cannot demand additional price because there has been no increase in the cost of the land on account of payment of enhanced compensation to the land owners. She referred to Annexures P.10 and P.11 to show that the enhanced price determined by the then Punjab Housing Development Board (for short, the Board) on account of payment of enhanced compensation to the land owners had already been paid by the petitioner and argued that in the garb of determination of the tentative price, respondents No. 2 and 3 cannot demand additional price. Learned counsel submitted that the judgment of the High Court in *D.S. Longia's* case (*supra*) has become final in

view of withdrawal of the Special Leave Petitions filed by the State of Punjab before the Supreme Court and, therefore, the PUDA, which is the successor of the erstwhile Board, cannot demand additional price ignoring the law laid down by the High Court.

(4) We have thoughtfully considered the submissions of the learned counsel but have not felt persuaded to agree with her. Section 3(1) of the Punjab Urban Estate (Development and Regulations) Act, 1964 (for short, the 1964 Act) empowers the State Government to declare any area comprising the land belonging to it or acquired by it whether situate within or out of the limits of a local authority to be an urban estate for the purpose of the Act. Sub-section (2) of Section 3 provides that the State Government may sell, lease or otherwise transfer, whether by auction, allotment or otherwise any 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. Proviso to this sub-section lays down that the sale, lease or other transfer of any land in an urban estate shall not be made in contravention of the requirements of a lay-out plan or zoning plan, if any, prepared in respect of such urban estate or part thereof and approved by the prescribed authority in accordance with the procedure laid down by the State Government from time to time. Section 23(1) contains an omnibus provision empowering the State Government to make rules for carrying out the purposes of the 1964 Act. Under Section 23(2)(a) and (b), the government is competent to make rules to determine the terms and conditions on which any land or building may be transferred by the government and the manner in which the consideration money for any transfer may be paid. In exercise of that power, the State Government framed the Punjab Urban Estate (Sale of Sites) Rules, 1965 (for short, the Rules). Rules 2(aa), (2)(e), 4 and 5 of the Rules, which have bearing on the decision of this petition read as under :—

“2(aa) : additional price means such sum of money as may be determined by the State Government, in respect of the sale of a site by allotment, having regard to the amount of compensation by which the compensation awarded by the Collector for the land acquired by the State Government of which the site sold forms a part, is enhanced by the Court on a reference made under

section 18 of the Land Acquisition Act, 1894, and the amount of cost incurred by the State Government in respect of such reference.

2(e) tentative price means such sum of money as may be determined by the State Government from time to time, in respect of the sale of a site by allotment, having regard, among other matters, to the amount of compensation awarded by the Collector under Land Acquisition Act, 1894, for the land acquired by the State Government of which the site sold forms a part.

4. Sale Price,—In case of a site by allotment the sale price shall be,—

(a) Where such site forms part of the land acquired by the State Government under the Land Acquisition Act, 1894, and—

(i) no reference under S.18 thereof is made against the award of the Collector or such reference having been made has failed, the tentative price;

(ii) on a reference made under S.18 thereof the compensation awarded by the Collector is enhanced by the Court, the aggregate of the tentative price and the additional price;

(b) In any other case, such final price as may be determined by the State Government from time to time.

(2) In the case of sale of a site by auction, the sale price shall be such reserve price as may be determined by the State Government from time to time or any higher price determined as a result of bidding in an open auction.

5-A. Liability to pay additional price :

(1) In the case of sale of a site by allotment, the transferee shall be liable to pay to the State Government, in addition to the tentative price, the additional price, if any, determined in respect thereto under these rules.

(2) The additional price shall be payable by the transferee within a period of thirty days of the date of demand made in this behalf by the Estate Officer :

Provided that the Chief Administrator may, in a particular case, and for reasons to be recorded in writing allow the applicant to make payment of the said amount within a further period not exceeding thirty days."

(5) A perusal of the above quoted rules shows that the tentative price means the price determined by the State Government from time to time in respect of a sale of site by allotment and while doing so, the government has to take into consideration various factors including the amount of compensation awarded by the Collector under the Land Acquisition Act, 1894 (for short, the 1894 Act) for the land acquired by it. The phrase additional price has been defined as the price determined by the State Government having regard to the enhanced compensation payable to the land owners in pursuance of the award passed by the Court on a reference made under Section 18 of the 1894 Act and the amount of cost incurred by the State Government in respect of such reference. The sale price is the price payable in respect of an allotment of sale." If the site sold by the competent authority forms part of the land acquired by the State Government under the 1894 Act and no reference under Section 18 thereof is made against the award of the Collector or such reference having been made has failed, the sale price is the tentative price as defined in Rule 2(e) of the Rules, but if the compensation awarded by the Collector is enhanced by the Court on a reference made under Section 18 of the 1894 Act, then the sale price means the aggregate of the tentative price and the additional price. If the site allotted by the competent authority does not form part of the land acquired by the State Government under the 1894 Act, then the sale price would mean such final price as may be determined by the State Government. However, there is nothing in the scheme of the 1964 Act and the Rules from which it can be inferred that the tentative price is synonymous with the provisional price and that a person, to whom the plot has been allotted on provisional price, cannot be asked to pay the tentative price determined by the government.

(6) The petitioner has not averred that the plot allotted to Shri Balbir Singh did not form part of the land acquired by the government in accordance with the provisions of the 1894 Act. Rather, the demand of increased price by the Urban Estates Department and payment thereof by the petitioner proves that the plot allotted to her forms part of the land acquired by the government. The compensation payable to the land owners appears to have been enhanced after the allotment of plot to Shri Balbir Singh and others. Therefore, at the time of allotment, he was bound to pay the tentative price determined in accordance with Rule 2(e). It, however, appears that the government had not determined the tentative price and, therefore, the plots were allotted on provisional price with a stipulation that the allottee will have to pay the price approved by the government. This is precisely what the Estate Officer had done,—*vide* memo dated 24th June, 1991,—*vide* which he asked allottee - Shri Balbir Singh to pay difference between the provisional price and the tentative price and as the petitioner has got the plot in question by re-allotment, she is bound to pay the tentative price determined by the government under Rule 2(e) of the rules.

(7) The argument of the learned counsel that the petitioner cannot be compelled to pay further enhanced price in the form of tentative price because she has already deposited additional price in pursuance of notice Annexure P.10 is clearly based on a misconceived notion about the concept of provisional price, tentative price and additional price. The 1964 Act and the Rules postulate the determination of tentative price and additional price and not the provisional price. Therefore, the petitioner cannot be absolved from her liability to pay the tentative price simply because she had paid the additional price determined by the State Government.

(8) A look at the allotment letter Annexure P.1 issued to Shri Balbir Singh shows that the price mentioned therein was provisional price and not the tentative price and he was told in unequivocal terms that the tentative price would be intimated after its approval by the government. After 4 years, Estate Officer, Urban Estates, SAS Nagar (Mohali) had issued memo Annexure P.5 dated 24th June, 1991 for payment of tentative price determined by the government. This is clearly borne out from Clause 1 of the

allotment. letter (Annexure P.1) and the memo Annexure P.5, which are reproduced below :—

“Clause 1 of the allotment letter

1. Plot No. 1281 measuring 250 sq. yds. in Sector 70, Urban Estate, SAS Nagar has been allotted to you. Since the rate on which the allotment is to be made in this sector, has not been finally approved, accordingly, this allotment is being made on the Provisional price of Rs. 58125. The tentative price of the plot would be intimated to you after its having been approved by the government.

Memo Annexure P.5

It is to inform you that the allotment of the plot No. 1281, Ph 70 dated 27th February, 1987 was made provisionally. Now the price of the plot has been declared. According to that, the balance amount of the plot is as under :

Total price of the plot	1,36,827.60
Provisional price	58,125.00
	78,702.60
25%	19,675.65
75%	59,026.95

Sr. No.	Actual amount	Interest	Total amount
1	14,756.74	2,165.97	16,822.71
2	14,756.74	1,549.48	16,316.22
3	14,756.74	1,032.99	15,789.73
4	14,756.73	516.49	15,273.22

It is to inform you that according to the above the 25% the amount Rs. 19,675.65 shall be deposited from issuance of its letter within 30 days. Balance four instalments will be sent within 6,6 months period. In case of non-deposit of payment in time proceedings for resumption of plot under the PUDA Act/ Rules shall be initiated.”

(9) In our opinion, the petitioner is not only bound by the terms and conditions stipulated in the allotment letter issued in favour of Shri Balbir Singh, but also the memo dated 24th June, 1991. The fact that she had undertaken to pay all the dues is discernible from the terms of re-allotment letter conveyed to the petitioner,—*vide* memo Annexure P.3. Therefore, at this belated stage, she cannot directly or indirectly challenge the memo dated 24th June, 1991 issued by the Estate Officer, Urban Estates, SAS Nagar (Mohali) to the original allottee to pay the instalments of tentative price.

(10) The decision of D.S. Longia’s case (*supra*) has been considered in *Devinder Cheema v. State of Punjab and another* (2) and distinguished in the following manner :

“The judgment of the Division Bench in D.S. Longia’s case cannot be made basis for giving relief to the petitioner because,

- (a) the proposition laid down by the Division Bench can no longer be regarded as correct law in view the pronouncement of the Apex Court in *Preeta Singh’s case* (*supra*);
- (b) the judgment of the learned Single Judge in *Gian Jyoti Educational Society v. Estate Officer, Urban Estate, Punjab and others*, AIR 1992 P&H 75, which was approved by the Division Bench did not have any bearing on the issue raised in D.S. Longia’s case. A careful reading of the judgment of *Gian Jyoti Educational Society’s case* shows that the demand which was impugned in that case represented the additional price and not the

tentative price. The learned Single Judge held that after fixation of tentative price, the additional price can be charged only if the compensation payable to the land owners was increased on a reference made under section 18 of the Land Acquisition Act, 1894. This is clearly discernible from the following observations made by the learned Single Judge :—

“Under Rule 2(aa) of the Rules, 1965, after the fixation of the tentative price the increase in the price could only be made in terms of additional price in a situation where the compensation awarded by the Collector with respect to the land was enhanced by the Court under a reference under S.18 of the Land Acquisition Act, 1894 or in appeal before the Court. Where the land allotted to the petitioner had been acquired under the Land Acquisition Act and the tentative price had been fixed by the Governemnt in terms of the rule, and the allottee was required to pay in addition to the tentative price only the additional price and there has been no increase or enhancement of the compensation which had become payable to the landowners on account of some award or judgment in appeal with respect to the land in question, there was no legal basis for making the quantum jump from Rs. 30 to Rs. 255 per square yard and the action of the authorities therefore, in increasing the rate of allotment is contrary to the provisions of the Act and the Rules and also arbitrary and could not be sustained.”

As against this, the amount sought to be charged from the petitioners in D.S. Longia's case was not the additional price but the tentative price fixed in accordance with Rule 4 of the Rules. Therefore, the Division Bench was not right in applying the ratio of Gian Jyoti Educational Society's case (*supra*).

The argument of Shri Patwalia that the withdrawal of Special Leave Petition filed by the State Government against the judgment of this Court in D.S. Longia's case is sufficient to invalidate the notice Annexure P.2 issued by the Estate Officer cannot be accepted for

the following reasons :—

(i) The withdrawal of special Leave Petition was secured by the State Government ignoring the fact that in the order their Lordships of the Supreme Court had expressed doubts about the correctness of the impugned judgment by making the following observations :—

“In the instant matter as also in the matters enumerated in the letter of Mr. G.K. Bansal, Advocate for the petitioners, dated 25th January, 1994, seeking withdrawal of all these matters, we are constrained to remark that no reasons have been assigned as to why the State of Punjab is submitting to the impugned orders of the High Court which *prima facie* appear to us to be unsustainable. The direct result of the withdrawal would not only be compounding to an illegality but would otherwise cause tremendous loss to the State exchequer. We, therefore, direct that the reasons which impelled the State to seek withdrawal of these matters be placed before us in the form of an affidavit by the Chief Secretary, Punjab or the Secretary of the Department concerned justifying the step for seeking withdrawal.”

(ii) In the affidavit filed by Shri R.S. Maan, the then Secretary of the Department, in the Apex Court in support of the government's plea for withdrawal of the petition for Special Leave to Appeal, a totally distorted version of the background in which the demand of price had been raised, was presented before the Apex Court. It appears that he intentionally omitted to mention the fact that the allotments had been made to the petitioners on provisional price while reserving the right to charge the price fixed by the government. Thus, Shri Malhotra appears to be right in his submission that withdrawal of the petition for Special Leave to Appeal was manipulated to help some influential persons and this should not be made a ground to invalidate the impugned notice, which is otherwise in accordance with law.

(iii) Secondly, the withdrawal of petition for Special Leave to Appeal by the State Government cannot be made basis for granting similar relief to the petitioner because such withdrawal cannot preclude the respondents from projecting their case in a correct perspective.”

(11) In view of the above discussion, we hold that the petitioner's challenge to the demand raised by respondent No. 3 for payment of instalments of tentative price does not suffer from any legal infirmity warranting interference by this Court under Article 226 of the Constitution of India and the writ petition is liable to be dismissed. Ordered accordingly.

R.N.R.