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JAIDEV INDER SINGH

v.

AMRITSAR IMPROVEMENT TRUST

(Civil Appeal Nos. 1411-1412 of 2016)

B

FEBRUARY 16, 2016

[KURIAN JOSEPH AND ROHINTON FALI NARIMAN, JJ.]

C

*Punjab Town Improvement Trust Act, 1922 – s. 36 – Acquisition of land of appellant and his family members – Two different land acquisitions at two different locations – Appellant and his family members allotted 250 sq. yards of land each, in respect of the first acquisition – Appellant and his family members covered by the second acquisition sought release of land to an extent of 500 sq. yards each – Held: Once the land owner is allotted lands as per the Rules as a local displaced person, thereafter even if his property is acquired at subsequent stage or at a different place, he will be a local displaced person – Since the Rules indicate that the allotment is for a plot upto the size of 500 sq. yards, appellant and his family cannot claim to an extent of 500 sq. yards each – In the interest of justice, the claim is limited to the extent of 250 sq. yards each and the trust is accordingly directed to allot the same – Utilisation of Land and Allotment of Plots and Improvement Trust Rules, 1975.*

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**Partly allowing the appeals, the Court**

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**HELD: 1.1** Once the land owner is allotted lands as per the **Utilisation of Land and Allotment of Plots and Improvement Trust Rules, 1975** as a local displaced person, thereafter even if his property is acquired at subsequent stage or at a different place, he will be a local displaced person. ‘Local displaced person’ has to be understood with reference to the acquisition concerned. [Para 7] [995-G]

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**1.2** There is nothing on record to show that as a package, 10.76 acres of land for orchard was released, pursuant to which no other claim permissible in law would be available to the appellant and his three other members of the family. There is nothing on record to show that any reserve price was collected for the release of land. It is seen from the judgment that the compromise, if at all it can be called so, was only with respect to

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the challenge on the acquisition and there was no issue on the claim for allotment under the Rules as a local displaced person. [Para 8, 9] [995-H; 996-A-B] A

1.3 The challenge on the acquisition was finally concluded before the High Court by judgment dated 27.09.2001 and the appellant and the other owners of the land belonging to the family of the appellant were dispossessed only on 09.06.2008, as can be seen even from the counter affidavit filed on behalf of the respondent. Thereafter in 2010, they have made the claim for allotment of land under the Rules before the Trust. Therefore, it cannot be held that the claim is highly belated and they should be non-suited on this ground. [Para 10] [996-C-D] B C

1.4 The appellant and the other owners belonging to the family cannot make a claim for an extent of 500 sq. yards each. The Rules indicate that the allotment is for a plot upto the size of 500 sq. yards. Having been satisfied and having limited their claim only to 250 sq. yards each in respect of acquisition made pursuant to Notification dated 18.12.1972, in the peculiar facts and circumstances of the case, the interest of justice would be served if the claim is limited to the extent of 250 sq. yards each. The respondent is directed to allot a plot each to the extent of 250 sq. yards to the appellant and his three other members of the family. [Paras 11, 12, 13] [996-D-G] D E

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1411-1412 of 2016.

From the Judgment and Order dated 12.10.2011 in CWP No. 19034 of 2011 dated 17.08.2012 in RA No. 83 of 2012 passed by the High Court of Punjab & Haryana at Chandigarh. F

Nikhil Goel, Marsook Bafaki, Advs. for the Appellants.

R.K. Rathore, K.S. Dadwal, Vinay Arora, S.S. Rawat, Advs. for the Respondents.

The Judgment of the Court was delivered by G

KURIAN, J. 1. Leave granted.

2. Pursuant to the Notification dated 18.12.1972 issued under Section 36 of Punjab Town Improvement Trust Act, 1922, which resulted in an Award dated 03.10.1973, around 63 acres of land belonging to the H

A appellant and his other three family members were acquired. Subsequently, by a Notification dated 19.02.1973, another acquisition at a different location was initiated, culminating in Award dated 04.05.1974, acquiring 87 acres of land belonging to the appellant and his three other members of the family. It appears that there was a challenge before the High Court of judicature of Punjab and Haryana on an acquisition, which led ultimately to the Judgment dated 27.09.2001 in Regular Second Appeal No. 2634 of 1993. It is seen from the Judgment that a decision was taken by the Empowered Committee to exempt 10.76 acres of land of the family of the appellant on condition that the same would be maintained as an orchard. The Second Appeal was disposed of, decreeing that 10.76 acres of land would stand exempted from acquisition with a condition that in case the condition is violated, it would be open to the Government or the Trust to initiate fresh steps for acquisition.

3. Thereafter, the appellant and the other members of the family, who are the owners of the land covered by the second acquisition, approached the Trust seeking release of land to an extent of 500 sq. yards each in terms of the Rules aforementioned. The Trust declined the request on two grounds, viz:-

- i) The appellant and three other members of the family had already been allotted 250 sq. yards of land.
- ii) There was a compromise before the High Court, pursuant to which 10.76 acres of land was exempted from acquisition and was released to the appellant.

4. The said order dated 24.03.2011 was challenged before the High Court in CWP No. 19034 of 2011, leading to the impugned Judgment dated 12.10.2011, whereby the writ petition was dismissed.

5. The learned counsel appearing for the respondent has made the following submissions :-

i) The appellant and his three other members of the family had already been allotted 250 sq. yards each and, therefore, there was no justification in making a further claim.

ii) The acquisition is of the year 1974 and the claim for release of land in terms of the Rules was made in 2010.

iii) Since the whole claims were settled by way of a compromise, the appellant and his three other members of the family cannot, under law, make any further claim; and finally;

iv) it is submitted that even assuming the respondent lost on all the above points, there is no justification in making the claim for 500 sq. yards of land since the appellant and his three other members of the family had limited their claim to 250 sq. yards in respect of the earlier acquisition.

6. In terms of the Utilisation of Land and Allotment of Plots and Improvement Trust Rules, 1975, it is not in dispute that four members of the family of the appellant had already been allotted 250 sq. yards of land each. This is in respect of the first acquisition. There are two different acquisitions at two different locations. One acquisition is pursuant to the Notification dated 18.12.1972 and the other dated 19.02.1973. They are different acquisitions and at different locations. We have referred to the position under the Rules which entitles a local displaced person to claim an extent upto 500 sq. yards of land on freehold basis at reserve price calculated on the basis of the formula annexed to the Rules. The Rules will have to be understood purposively and interpreted in a just and fair manner. 'Local displaced person' under the Rules is defined as follows:-

"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 under Section 36 of the Punjab Town Improvement Act, 1922."

Rule 7 (ii) deals with eligibility, which reads as follows :-

"A local displaced person may be allotted a plot upto the size of 500 sq. yards on freehold basis on reserve price calculated on the basis of the formula in the Annexure, if the area of the land owned by him and acquired by the Trust is more than 500 sq. yards. If the area of the acquired land is less than 500 sq. yards the local displaced person shall be entitled to allotment of plot which is nearest in size, next below the area of his land, which has come under acquisition."

7. It cannot be held that once the land owner is allotted lands as per the Rules as a local displaced person, thereafter even if his property is acquired at subsequent stage or at a different place, he will not be a local displaced person. Local displaced person has to be understood with reference to the acquisition concerned.

8. We also do not find any basis for the contention that there was a compromise. There is nothing on record to show that as a package, 10.76 acres of land for orchard was released, pursuant to which no

A other claim permissible in law would be available to the appellant and his three other members of the family.

B 9. There is also nothing on record to show that any reserve price was collected for the release of land. It is seen from the Judgment that the compromise, if at all it can be called so, was only with respect to the challenge on the acquisition and there was no issue on the claim for allotment under the Rules as a local displaced person.

C 10. We also find no force in the submission made by the learned counsel for the respondent that the claim is highly belated. The challenge on the acquisition was finally concluded before the High Court by Judgment dated 27.09.2001 and the appellant and the other owners of the land belonging to the family of the appellant were dispossessed only on 09.06.2008, as can be seen even from the counter affidavit filed on behalf of the respondent. Thereafter in 2010, they have made the claim for allotment of land under the Rules before the Trust. Therefore, it cannot be held that the claim is highly belated and they should be non-sued on this ground.

D 11. However, we see some force in the contention raised by the learned counsel for the respondent that the appellant and the other owners belonging to the family cannot make a claim for an extent of 500 sq. yards each. The Rules indicate that the allotment is for a plot upto the size of 500 sq. yards.

E 12. Having been satisfied and having limited their claim only to 250 sq. yards each in respect of acquisition made pursuant to Notification dated 18.12.1972, in the peculiar facts and circumstances of the case, we are of the view that the interest of justice would be advanced if the claim is limited to the extent of 250 sq. yards each.

F 13. Accordingly, the appeals are partly allowed with a direction to the respondent to allot a plot each to the extent of 250 sq. yards to the appellant and his three other members of the family, who are the owners of the acquired land. The needful shall be done within three months from the date of production of a copy of this order before the Trust.

G 14. In view of the application made by the appellant and three other members of the family in the year 2010, needless to say that the reserve price that would be fixed by the Trust would be in accordance with the price as fixed on the date of the application.

No costs.