

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Arbitration Case No. 24 of 2013 (O&M)
Date of Decision : 16.08.2013**

Brij Mohan and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE

Present: Mr. Naveen S. Bhardwaj, Advocate,
for the petitioners.

Mr. Rahul Garg, Advocate,
for respondents No. 2 and 3.

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SANJAY KISHAN KAUL, C.J. (ORAL)

The respondents came up with the scheme for allotment of plots to land owners/oustees on account of their land being acquired under the Land Acquisition Act, 1894. The allotment was at floating rates. The original scheme of 1987 was clarified by a circular of 1990 and was also amended in 1992.

The petitioners were claimants of these plots, but on account of their failure to deposit the amount due, their allotment was cancelled which resulted in a litigation that went upto the Hon'ble Supreme Court where their right of allotment was restored. So, they were allotted other plots, as the plots originally allotted to them already stood re-allotted. This is stated to have been done at

concessional rates.

In respect of these re-allotted plots also disputes of a rate arose and the petitioners filed CWP No. 22242 of 2012 which was decided on 08.11.2012. In terms of these orders in view of the arbitration clause interse the parties the petition was permitted to be withdrawn with liberty to approach the concerned authorities for appointment of an arbitrator. The petitioners approached for appointment of an arbitrator, but since no arbitrator was appointed, they filed the present petition seeking appointment of the arbitrator.

On the last date of hearing, learned counsel for the respondents pointed out that these plots now allotted to the petitioners had in fact been sold by the petitioners and re-allotment letters had been issued to the purchasers by the respondents. The details of these have been set out in para 2 of the written statement. Learned counsel for the petitioners was given time to verify this fact as there was no averment qua this aspect in the petition and file a rejoinder accordingly.

No rejoinder has been filed. Learned counsel for the petitioners concedes that these plots have been sold which fact had not been brought to his knowledge. Despite this, learned counsel for the petitioners states that the matter should go to arbitration as the amounts which were paid by the petitioners for these plots were under protest.

I am in complete disagreement with this argument. Firstly, the petitioners have approached this Court with unclean hands as

they have failed to aver in the petition or any time thereafter that the plots have been sold. Secondly, sale of these plots and the recognition of this fact by the respondents by re-issuing the allotment letters would imply that the purchasers would now step into the shoes of the petitioners as allottees and the agreement is now between those purchasers and the respondents. Thus, there cannot be any arbitration interest between the present parties now over the issue of pricing.

The petition accordingly stands dismissed.

(SANJAY KISHAN KAUL)
CHIEF JUSTICE

16.08.2013

Amodh