

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

COCP No.1322 of 2015

Date of Decision: 29.02.2016

Jai Narain and another

. . . .Petitioners

Versus

Sh. Bijender Singh and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.I.D. Singla, Advocate,
for the petitioner.

Mr.V. Ramswaroop, Addl. A.G. Punjab.

Mr.Vishal Garg, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed to initiate contempt proceedings against the respondents under Sections 10 & 12 of the Contempt of Courts Act, 1971 for the willful disobedience of the order dated 16.5.2011.

Learned counsel for the petitioners has submitted that a bunch of writ petitions were decided together by taking the lead case as CWP No.19927 of 2009 titled as "*Sandeep Vs. State of Haryana and others*". However, the learned Single Judge passed a separate orders in CWP No.20127, 19965 of 2009 & CWP Nos.2272, 7980, 16703 & 16675 of 2010 and separate order in bunch of 12 petitions, namely, CWP Nos.1646 to 1652, 1605, 6940, 3742, 1637, 8594 of 2010. All these 12 petitions were kept as a separate bunch in which the following directions were issued: -

"That being the position, the action of the HUDA to reject the claim is unjust. This may also be so in the background that this Court

had specifically issued directions to HUDA to intimate 10% cost to the petitioners, which was still not done. These questions, in my view, still are academic. If everything is taken to be as stated in the reply, number of plots are still available, as per the information furnished by the petitioners. This information obtained by the petitioner under the Right to Information Act is placed on record as Annexure P-6. Rather it is clearly given out here that the vacant plots are reserved for oustees/court cases. The right of the petitioner for consideration for allotment of plot in oustees quota, thus cannot be forfeited on the ground that he had not earlier made application along with cost of 10%. The writ petitions, therefore, are allowed. Direction is hereby issued to respondent-HUDA to consider the claims of the petitions in the reserved category of oustees. The petitioners would deposit 10% of the cost of plot as per their entitlement for which they have made applications or are intending to make applications. Let this cost be deposited within a period of one month from the date of receipt of certified copy of this order. If the petitioners deposit this cost, their claim shall be considered and the plots shall be allotted to them in terms of the policy instructions.”

The decision in the case of CWP No.19927 of 2009 was challenged by way of an intra-Court appeal bearing LPA No.2096 of 2011, in which the following directions were given: -

“Thus, the present appeal as well as other connected matters are disposed of with the following directions, in addition to the

decision on the questions of law discussed above.

- (i) That date of notification under Section 4 of the Land Acquisition Act, 1894 is relevant to determine the eligibility of a land-owner for allotment of a residential plot, even if the acquisition is for the purposes of commercial, industrial or institutional.*
- (ii) That the entitlement of the size of the plot and the procedure for allotment shall be as on the date of allotment in pursuance of an advertisement issued inviting application from the oustees.*
- (iii) That the HUDA or such other authority can reserve plots upto 50% of the total plots available for all reserved categories including that of oustees. As to what extent there would be reservation for the oustees, is required to be decided by the State Government and/or by HUDA or any other authority, who is entitled to acquire land;*
- (iv) That the oustees are entitled to apply for allotment of plot along with earnest money in pursuance of public advertisement issued may be inviting applications from the general public and the oustees through one advertisement. If an oustee is not successful, he/she can apply again and again till such time, the plots are available for the oustees in the sector for which land was acquired for residential/commercial purposes or in the adjoining sector, if the land acquired was for institutional and industrial purposes etc. The plots*

to the oustees shall be allotted only by public advertisement and not on the basis of any application submitted by an oustee;

- (v) That the price to be charged from an allottee shall be the price mentioned in the public advertisement in pursuance of which, the plot is allotted and not when the sector is floated for sale for the first time.*
- (vi) That the State Government or the acquiring authority shall not advertise any residential plot for sale without conducting an exercise in respect of plots ear-marked for reserved categories and after identification of the plots available for the oustees in each sector. Thereafter, the State Government or the acquiring authority shall publish an advertisement inviting applications from such oustees to apply for allotment of plots in accordance with law; and*
- (vii) If in any sector, more than 50% plots have been allotted by way of reservation including to the oustees, then such allotment shall not be cancelled or reviewed in view of the judgment of this Court.”*

The aforesaid 12 writ petitions, which were decided together, were also challenged by way of appeals and one such appeal namely, LPA No.2200 of 2011 was filed by the present petitioners against the order passed in CWP No.1651 of 2010 titled as Haryana Urban Development Authority and another Vs. Jai Narain and another. The said appeal was dismissed by this Court

on the ground that the Division Bench had already dismissed one of the appeals, namely, LPA No.2070 of 2011 arising out of CWP No.8594 of 2010 titled as *Haryana Urban Development Authority and another Vs. Layak Ram Singh*, on 15.11.2011. Consequently, the said order was maintained in the case of the present petitioners as well. The respondent/HUDA also filed SLPs before the Apex Court against the order passed in LPAs but failed.

Since the direction issued in the case of the petitioners was not followed by the respondents, therefore, the present petition has been filed in which the respondents have filed their reply and have taken a stand that they are following the directions issued by this Court in LPA No.2096 of 2011 and more particularly the direction contained in Clause 4 of the said directions, which read as under: -

“(iv) That the oustees are entitled to apply for allotment of plot along with earnest money in pursuance of public advertisement issued may be inviting applications from the general public and the oustees through one advertisement. If an oustee is not successful, he/she can apply again and again till such time, the plots are available for the oustees in the sector for which land was acquired for residential/commercial purposes or in the adjoining sector, if the land acquired was for institutional and industrial purposes etc. The plots to the oustees shall be allotted only by public advertisement and not on the basis of any application submitted by an oustee.”

Learned counsel for the petitioners has submitted that the aforesaid directions issued in LPA No.2096 of 2011 are not applicable to the case of the petitioners because those were applicable to the case of *Sandeep (supra)*, which has been separately decided though in the same judgment rendered on 16.5.2011.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that the stand taken by the respondents is totally erroneous and a misreading of the documents available on record. The respondents are bound to comply with the order passed by this Court in the writ petition filed by the petitioners bearing CWP No.1651 of 2010, which has been upheld separately by the Division Bench on 9.12.2011 and the Apex Court on 5.3.2014. There is no connection of the directions issued in the case of *Sandeep (Supra)* by the Division Bench in LPA No.2096 of 2011.

Accordingly, the present petition is hereby disposed of with a direction to the respondents to comply with the order passed by this Court on 16.5.2011 within a period of three months from the date of receipt of certified copy of this order.

29.02.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**