

PETITIONER:
HARYANA URBAN DEVELOPMENT AUTHORITY& ANR.

Vs.

RESPONDENT:
ER. HARSH JAIN & ORS.

DATE OF JUDGMENT: 19/07/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
1996 SCALE (5)704

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

We have heard learned counsel on both sides.

Leave granted.

This appeal by special leave arises from the order of the Division Bench of the Punjab and Haryana High Court at Chandigarh made on December 15, 1995 in Writ Petition No.7486/95. The undisputed facts are that the first respondent was given a provisional letter of allotment dated October 29, 1991 (for short, 'P.L.A.') in respect of an industrial plot at Roz-Ka-Meo, Industrial Estate, Gurgaon admeasuring 4000 sq. yard at tentative price of Rs.2,42,000/- worked at the rate of Rs.60.50 per sq. yard. The respondent had deposited a sum of Rs.25,000/- In the P.L.A. the respondent was called upon to deposit a further sum of Rs .35,500/- within the stipulated period towards 25% cost of the land. The balance 75% was required to be paid in six annual equal instalments with interest at. 10% per annum subject to compliance of the conditions enumerated thereunder. The condition as envisaged are:

- i. To get the registration with the Directorate of Industries (GM/DIC) of the concerned Distt. or registration with DGTD/Ministry of Industry, Govt. of India, depending upon the size of the Industrial undertaking i.e. small medium or large.
- ii. To get the building plan approved from the competent authority.
- iii. To get sanction letter from the financial Institution/banks for financing the project.
- iv. To supply list of plant and machinery alongwith quotations.
- v. To supply to Haryana State

Electricity Board of release of an electric connection to the preposed site."

Para 3 provides that the first respondent was to communicate his acceptance of the provisional allotment within the time specified therein. In case of non-receipt of acceptance it was treated to have been withdrawn. In case the acceptance was received within 30 days from the date of the receipt of the provisional allotment the PLA would be valid for a period of 90 days in case the project is under self-financing and 180 days, in case he proposes to raise loan from HFC/Banks/All Indian Financial Institutions. In that event, he was required to furnish proof of having completed required formalities listed in para 2 to the satisfaction of the Authority. He was also required to deposit security equivalent to 10% of the cost of the land which would be refundable on implementation of the project. The security shall also stand forfeited if the construction was not started within three months from the date of the production of sanction or of two years after issue of the allotment letters. Clause 5 is relevant which is as under:

"In case the pre-requisite formalities as envisaged in para 3 are completed within the stipulated period the price mentioned in para 2 will be charged at the time of issue or final letter of allotment. However, in case an extension of time has been sought for completion of formalities the rates prevalent at the time of issue of final letter or allotment shall be charged."

Clause 8 says that PLA shall stand withdrawn automatically after expiry of period mentioned in para 4 above without any further reference and no correspondence in this regard will be entertained.

It is not in dispute that the first respondent had proposed to start an industrial unit or obtaining finance from Industrial Financial Corporation. It would appear that he had submitted his application to the Financial Institution for sanction of the land on the last date of 180 days namely, April 5, 1992 and he sought for extension of time. The appellant had granted extension subject to the appellant paying at the rate of Rs.1/- per sq. year per month by proceedings dated May 14, 1992. The respondent did not pay the extension fee. The appellants therefore, had declined to accept the request of the appellant by proceedings dated July 7, 1992 for further extension of time to pay the extension fee. In the meanwhile, the rates of the land had increased to Rs.192.45 per sq. yard as on July 31, 1992. The final letter of allotment had thereafter came to be issued to the first respondent on November 23, 1992 calling upon him to pay at that rate in a sum of Rs.9,20,680.80. The respondent had challenged the legality of the demand made by the appellant in filing the above writ petition. The High Court has directed the appellant to collect at the rate of Rs. 60.50 as per the PLA. Thus, this appeal by special leave.

Shri Gupta, learned counsel for the appellants, contended that in terms of para 5 of the PLA, the respondent was bound to pay since he had not complied with the formalities under PLA, in paras 2 and 3. Consequently, the High Court was wrong in directing the appellant not to collect the rate prevailing as on the date of the final

letter of allotment. The learned counsel for the respondents contended that the Government had changed its policy as on September 21, 1991 directing that even in case of non-compliance of the condition in paras 2 and 3, the authorities should collect at the rates prevailing as on the date of issue of PLA since the plots remained not allotted and re-cycling of the finance gets stagnated and, therefore, the necessary allotment should be made only at the rate as on date of issue of PLA. In support thereof, the learned counsel sought to place reliance on two letters one by the Commissioners Industries, Haryana and as other letter addressed by the Deputy Director, Land Acquisition to the Director of Industries, Haryana. We have carefully scanned through the above two letters. These two letters were also relied upon by the High Court to conclude that the appellant is bound by the direction issued by the Government. A reading of the order passed by the Commissioner of Industries, Haryana dated June 15, 1993 would show in para 5 that the cost of the land communicated to the applicant in the LOI/PLA should remain uncharged during the extended period given to any applicant. In other words, it would mean that the order came to be passed on June 15, 1993 with the above direction. It was endorsed to the authorities on June 21, 1993. Therefore the directions to charge at the unchanged prices during the extended period would be applicable to those cases where the extension was to be completed after the aforesaid date but not to those which have already been finalized. It is not to those which have already been finalized. It is not in dispute that final letter of allotment was issued to the first respondent on November 23, 1992 by which date the prices of the land had been increased as on June, 30, 1992 at the rate of Rs. 192.45 per sq. yard. Under these circumstances, the High Court was not right in directing the appellant to collect the prices of plot at Rs. 60.50 per sq. yard.

The appeal is accordingly allowed. Time is extended for payment of the amount with interest at 10% as given in the final letter of allotment for a period of 5 months from today. In case the first respondent does not pay the amount within the time specified. the writ petition would stand dismissed without further reference. No costs.