

(2022)01ILR A312
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 03.12.2021 &
23.12.2021

BEFORE

THE HON'BLE PRITINKER DIWAKER, J.
THE HON'BLE ASHUTOSH SRIVASTAVA, J.

Writ C No. 61005 of 2017

Dhan Pal Singh & Ors. ...Petitioners
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioners:
 Sri Manoj Kumar Pandey

Counsel for the Respondents:
 C.S.C., Sri Vivek Saran

A. UP Avas Evam Vikas Parishad Plots and Housing Regulations and Allotment Rules, 1979 – Allotment of shop/plot to the displaced person – Rates chargeable on it, whether it should be the rate which was given to the farmers at the time of the acquisition or the current market rate – Held, the contention that the demand of the Parishad for current rates is unjustified cannot be sustained. The petitioners are liable to pay the current rates as applicable towards the allotment of the plots in their favour – Raghuvir Singh's case is followed. (Para 3 and 9)

Writ petition dismissed. (E-1)

List of Cases cited:-

1. Special Leave to Appeal (C) No. 487 of 2018; U.P. Avas Evam Vikas Parishad & ors. Vs Raghuvir Singh (D) through L.R.s & ors. decided on 11.01.2018

(Delivered by Hon'ble Ashutosh
 Srivastava, J.)

1. Heard Sri Manoj Kumar Pandey, learned counsel for the petitioners, Sri Vivek Saran, learned counsel, who has put in appearance on behalf of contesting Respondents No.2, 3 & 4 and learned Standing Counsel for Respondent No.1.

2. The pleadings between the contesting parties have been exchanged and with the consent of the parties, we proceed to decide the writ petition on merits at the admission stage itself.

3. The writ petitioners claim that they are "Displaced Persons" within the meaning of displaced persons under the U.P. Avas Evam Vikas Parishad Plots and Housing Regulations and Allotment Rules, 1979. Their entire land was acquired by the Parishad for their Vasundhara Scheme. The award in respect of the acquisition was made on 27.02.1989. It is submitted that the Parishad under the 1979 Regulations has decided to allot plots as well as shops to the displaced persons provided such displaced persons apply and get themselves registered by depositing a sum of Rs.5000/- in between 01.09.1999 and 30.09.1999. There is no dispute about the petitioners getting themselves registered by depositing the requisite amounts. The Parishad proceeded to allot the shops to the petitioners which were not acceptable to the petitioners. The Parishad consequent to a meeting held on 08.10.2012 resolved to allot commercial plot measuring 25 sq. meter to 50 sq. meter to the displaced persons. The grievance of the petitioners, as is borne out from the averments made in the writ petition, is with regard to the rate of the land/plot being charged by the Parishad. According to the petitioners, the rate should be the rate which was given to the farmers at the time of the acquisition, while the Parishad is insisting on current

market rate. The other grievance of the petitioners is that till date the plots have not been allotted to the petitioners.

4. Sri Vivek Saran, learned counsel appearing for the contesting respondents, has filed counter affidavit stating therein that the Parishad on account of the unwillingness of the erstwhile landowners/villagers, whose entire land was acquired and such persons were placed in the category of "Displaced Persons", in principal agreed to allot "Small Commercial Plots" at the current/prevaling market rate at the time of the allotment through the process of auction. He submits that the Hon'ble Supreme Court has approved the charging of the current land rate by the Parishad in its order dated 11.01.2018 passed in *Special Leave to Appeal (C) No.487 of 2018 (U.P. Avas Evam Vikas Parishad & others Vs. Raghuvir Singh (D) through L.R.s & others)*, which SLP arose from the judgment rendered by this Court in Writ Petition (C) No.64373 of 2008. The order of the Hon'ble Supreme Court has been brought on record as CA-2.

5. Sri Vivek Saran further submits that in similar set of facts this Court was pleased to dispose of Writ Petition (C) No.16355 of 2018 by order dated 10.05.2018 (Annexure CA-3) directing the Parishad to allot "Small Commercial Plots" through auction amongst the Displaced Person Category. He further submits that the prevailing land rate in Vasundhara Scheme, Ghaziabad is between Rs.48,800/- to Rs.44,200/- sq. meter and the circle rate would be around Rs.60,000/- to Rs.56,500/- per sq. meter and in such view of the matter, the rate of land demanded by the

petitioners is unimaginable and cannot be accepted.

6. In the rejoinder affidavit filed by the petitioners, in response to the counter affidavit of the Parishad, the petitioners have demonstrated that the Parishad is not following uniform policy in applying the rate of the land rather is adopting a pick and choose policy, inasmuch as for certain schemes i.e. Siddharth Vihar Mandola of Ghaziabad, Vrindadban Scheme of Lucknow, the Parishad has allotted plots to displaced persons on the basis of rate of compensation or 20% of first allotment, while the displaced persons of Vasundhara Scheme, Ghaziabad (i.e. the petitioners) the Parishad is demanding the current market rate.

7. Sri Vivek Saran, learned counsel for the contesting respondents has apprised the Court that the Parishad generally allots the commercial plots by conducting public auctions. However, since the present allotment process relates to allotting the commercial plots of 25 to 50 sq. meter to a special class i.e. displaced persons, a proposal dated 06.10.2021 has been made not to hold any auction and allot the plots to the displaced persons, such as the petitioners. The proposal dated 06.10.2021 is in the process of approval in the Board Meeting of the Parishad and soon after the approval, the allotment of the plots shall be made to the petitioners and other similarly circumstanced displaced persons.

8. We have considered the submissions raised. We find that Writ Petition (C) No.64373 of 2008 (Raghvir Singh and another Vs. State of U.P through Secretary, Urban Development and others)

raising similar issues, as raised in the present petition was, allowed and the demand of current rates made by the respondents was held to be unsustainable. However, the Hon'ble Apex Court in *Special Leave to Appeal (C) No.487 of 2018 (U.P. Avas Evam Vikas Parishad & others Vs. Raghuvir Singh (D) through L.R.s & others)* preferred by the Parishad against the decision dated 06.10.2017 passed in Writ Petition (C) No.64373 of 2008, vide its order dated 11.01.2018, modified the order of the High Court to the effect that the rate at which the plot may be allotted, will be the current rate.

9. In such view of the matter, the contention of the petitioners that the demand of the Parishad for current rates is unjustified cannot be sustained. The petitioners are liable to pay the current rates as applicable towards the allotment of the plots in their favour. As regards the allotment of the "Small Commercial Plots" of 25-50 sq. meter area to the petitioners, it is expected from the Respondent Avas Evam Vikas Parishad that the allotment process may be finalized at the earliest considering the delay that has already occurred.

10. With the aforesaid observations, the writ petition is **dismissed**.

Order on Correction Application.

The application is allowed.

The word 'Pritinder' in the signature clause of the judgement dated 3.12.2021 stands substituted by the word '**Pritinker**'.

This order shall be treated as part of the judgement dated 3.12.2021 and certified copy of this order shall be issued

along with copy of judgement dated 3.12.2021.

(2022)011LR A314

ORIGINAL JURISDICTION

CRIMINAL SIDE

DATED: LUCKNOW 24.12.2021

BEFORE

THE HON'BLE SUBHASH VIDYARTHI, J.

Application U/S 482 Cr.P.C. No.2955 of 2007

Rakesh Kumar Shukla **...Applicant**
Versus
State of U.P. & Anr. **...Opposite Parties**

Counsel for the Applicant:

Sri Ashok Kumar Dwivedi

Counsel for the Opposite Parties:

A.G.A., Sri U.B. Singh, Sri V.B. Rao

(A) Criminal Law - The Code of Criminal Procedure, 1973 - Section 482 - Inherent power - Indian Penal Code, 1860 - Sections 307, 504, 506 - Section 155(4) Cr.P.C - Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.(Para - 16)

Informant/respondent no.2 filed an application under Section 156 (3) Cr.P.C. against the accused-applicant - applicant had fired at him with the intention to kill him - charge sheet forwarded to the court for trial of the applicant. - applicant charged with offences under Sections 504 and 506 IPC - one of which, i.e. the offence under Section 506 is a cognizable offence.(Para - 2,3,15)

HELD:-Since the accused had been charged under Sections 504 and 506 IPC, he has to be tried for both the offences in the manner prescribed for trial of cognizable offences.(Para - 17)

Application u/s 482 Cr.P.C. rejected. (E-7)