A HARYANA URBAN DEVELOPMENT AUTHORITY & ANR.

v.

JAGDEEP SINGH

Civil Appeal No. 4709 of 2011

B MAY 08, 2023

[ABHAY S. OKA AND RAJESH BINDAL, JJ.]

Cost: Imposition of, for filing frivolous litigation – On facts, appellant demanding additional price for plot allotted to the respondent – Said land was transferred by the Animal Husbandry Department to the appellants and the rate at which the land was transferred was revised – Suit filed by the respondent challenging the demand of additional price – Courts below set aside the demand of the additional price of the plot allotted to the respondent in accordance with the terms and conditions contained in the allotment letter – On appeal, held: There is no illegality in the order passed by the courts below in setting aside the demand of the additional price of the plot allotted to the respondent – Appellant was in knowledge of the matter on similar issue decided on merits by this Court way back in 2005 – Said suit was contested and decreed in 2008, thereafter, appeal was preferred by the appellant before the first appellate court, then High Court and thereafter, before this Court – Case is a frivolous litigation filed by the appellants, where the officers shirk to take responsibility – For filing frivolous appeal, and for wasting the time of the Courts at different levels, cost of Rs 1,00,000/- imposed on the appellant which is to be deposited with the Supreme Court Mediation Centre – Respondent having been dragged in unnecessary litigation upto this Court to be awarded cost of Rs 50,000/- – Appellants would recover the said amount from the guilty officers/officials who opined the case to be fit for filing appeal at different levels despite being covered by judgment of this Court.

Judicial deprecation : Conduct of the litigants in flooding this Court with frivolous litigation – Is deprecated.

Sanjay Gera vs. Haryana Urban Development Authority & Anr. **(2005) 3 SCC 207 – relied on.**

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Sabaji Naik & Ors. vs. Pradnya Prakash Khadekar & Ors. **(2017) 5 SCC 496 : [2017] 2 SCR 95;** *ICOMM Tele Ltd. Vs. Punjab State Water Supply and Sewerage Board and Ors.* **(2019) 4 SCC 401 : [2019] 2 SCR 984 – referred to.**

Case Law Reference

[2017] 2 SCR 95	**referred to**	**Para 14**
[2019] 2 SCR 984	**referred to**	**Para 15**
(2005) 3 SCC 207	**relied on**	**Para 20**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4709 of 2011.

From the Judgment and Order dated 28.10.2009 of the High Court of Punjab & Haryana at Chandigarh in RSA No. 1449 of 2009.

Samar Vijay Singh, Keshav Mittal, Ms. Amrita Verma, Ms. Sabarni Som, Advs. for the Appellants.

S. N. Jha, K. N. Jha, S. K. Mishra, Mrs. Revathy Raghavan, Advs. for the Respondent.

The Judgment of the Court was delivered by

RAJESH BINDAL, J.

1. The Order dated 28.10.2009 passed by the Punjab and Haryana High Court in RSA No. 1449 of 2009 has been challenged in the present appeal. By the aforesaid order, the appeal filed by the Appellants was dismissed and concurrent findings of facts recorded by the Trial Court as well as by the First Appellate Court were upheld.

2. The dispute pertains to demand of additional price for the allotment of plot to the Respondent.

3. The Respondent was allotted plot no.1084 in Sector-14, (Part), Hisar vide allotment letter dated 21.08.1986 @ ₹224.90 per sq. yard.

4. Notice was issued to the Respondent by the Appellants on 15.01.1993 raising demand of additional price as well as to show cause as to why the plot should not be resumed on account of non-construction

within a period of two years of allotment. The aforesaid notice was followed by subsequent notices and the last being dated 28.01.2002.

5. A civil suit was filed by the Respondent on 01.10.2003 challenging the demand raised by the present Appellants. The same was decreed. Aggrieved by the same, the present Appellant filed appeal which was dismissed by the lower Appellate Court. The Appellants did not succeed even before the High Court.

6. The learned Trial Court accepted the plea raised by the respondent on the ground that in terms of the conditions contained in the letter of allotment, the demand of additional price could be raised only in case of enhancement in cost of land by the competent authority under Land Acquisition Act. As in the case in hand, there is no enhancement in cost of land awarded by any Court or authority, therefore, no additional demand could be raised.

7. The argument raised by learned counsel for the Appellants is that the land in question was transferred by the Animal Husbandry Department, Haryana to the Appellants @ ₹1,21,000/- per acre. However, later on the rate was revised to ₹3,00,000/- per acre. On failure, the Appellants were not to be given possession of the land. The allotments had been made by the Appellants on 21.08.1986 @ ₹224.90. Initially when the plot was allotted to the Respondent, calculation of price was made taking the cost of the land at ₹1,21,000/- per acre. However, later on the cost was increased to ₹3,00,000/- per acre, an additional price was demanded. The price of the plot was worked out at ₹301.70 sq. yard and the additional demand was raised from the Respondent @₹76.80 per sq.yd. It was also stated in the notice that though the cost of development charges has been increased in the last 5 to 6 years, however still the Appellants will bear the same. As the cost of the land to the Appellants increased, the same had to be borne by the allottees. The Appellants being non-profitable Organisation.

8. It was further stated in the notice that in case the Respondent is not ready to accept the allotment of plot on payment of an additional price, he may get his deposit back alongwith interest @ 10% p.a.

9. On the other hand, learned counsel for the Respondent pleaded that in the case in hand, one of the condition in the letter of allotment was that the price of the plot was tentative; the additional price can be

demanded only on account of increase in cost of land awarded by the competent authority under the Land Acquisition Act. It is admitted case of the Appellant that the land on which the plot in question was carved out was not acquired rather it was transferred by the Animal Husbandry Department of the State to the Appellants. The price thereof was determined at the time of transfer, however, in case later on different price is determined, the allottees cannot be made to bear the increased cost.

10. Heard learned counsel for the parties and perused the record and relevant documents.

11. The fact that a plot was allotted to the Respondent vide allotment letter dated 21.08.1986 at the cost of ₹224.90 per sq. yard, is not in dispute. It is also the admitted case of the appellant that the land on which the plot was carved out was initially owned by the Animal Husbandry Department of the State which was transferred to the appellant. The initial price was fixed as ₹1,12,000/- per acre. The cost of plot was calculated including the cost of development and allotments were made. It transpires from the record that later on, the rate at which 275.5 acres of land of Animal Husbandry Department was transferred to the Appellants was revised to ₹3,00,000/- per acre. Whether burden of additional cost of the land could be put on the plot holders, was the issue before the Courts below. The relevant clause as contained in the letter of allotment regarding demand of additional price is extracted below:

> *"**Clause 9** : The above price is tentative to the extend that any enhancement in the cost of land awarded by the competent authority under the Land Acquisition Act shall also be payable proportionately as determined by the authority the additional price determined shall paid within 30 days of its demand."*

12. The aforesaid clause was interpreted by all the courts below to mean that the additional price can be demanded in case there is enhancement in cost of the land awarded by the competent authority under the Land Acquisition Act. It is the admitted case of the Appellants that the land for allotment of the plot was never acquired. Hence, there could not be any enhancement in the cost of the land by any authority or court under the Land Acquisition Act.

13. From these undisputed facts on record and the terms and conditions contained in the allotment letter, there is no illegality committed by the learned court below in setting aside the demand of the additional price of the plot allotted to the Respondent. There is no merit in the present appeal. The same deserves to be dismissed. Ordered accordingly.

14. For filing the present frivolous appeal, in our opinion, the Appellants deserve to be burdened with heavy cost. This Court had deprecated the conduct of the litigants in flooding this Court with frivolous litigations, which are choking the dockets as a result of which the matters, which require consideration are delayed. Observations made in ***Dynandeo Sabaji Naik & Ors. vs. Pradnya Prakash Khadekar & Ors.***[1] are extracted below:

> *"13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.*
>
> *14. Courts across the legal system-this Court not being an exception - are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple*

[1] (2017) 5 SCC 496

issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalizes such behaviour. Liberal access to justice does not mean access to chaos and Indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner."

(emphasis supplied)

15. The aforesaid judgment was cited with approval in a later judgment of this Court in ***ICOMM Tele Ltd. Vs. Punjab State Water Supply and Sewerage Board and Ors.***[2]

16. Now coming to the facts of the present case which clearly establish the case in hand to be a frivolous litigation, filed by the Appellants, where the officers shirk to take responsibility.

[2] (2019) 4 SCC 401

17. On merits also a similar issue came up for consideration before this Court in ***Sanjay Gera vs. Haryana Urban Development Authority & Anr.***[3] In the aforesaid case, the plot was allotted in same Sector-14 (Part), Hissar. Additional price was demanded for the same as is projected in the case in hand.

18. Though the High Court had not granted relief to the allotee, therein however this Court accepted the plea and quashed the demand of additional price from the allottee, interpreting the same condition in the letter of allotment as is in the case in hand. Paragraphs 2, 5 and 6 thereof are reproduced hereunder:

> *"2. Brief facts which are necessary for disposal of this appeal are that the plaintiff-appellant herein was allotted Plot No.940 vide allotment letter bearing No.21548 dated August 20, 1986 and he deposited an amount of Rs.18,600 in compliance of the conditions of the allotment and sent the required documents. The defendant-respondents demanded the annual instalment on account of the said plot and the plaintiff-appellant deposited the same vide receipt dated August 21, 1987. After deposit of the total amount demanded by the defendant-respondents by sending letter No.1300 dated January 15, 1993 to the plaintiff-appellant demanding a sum of Rs.38,400/- to be paid within a period of thirty days from the date of issue of the letter in respect of the above said plot. The plaintiff-appellant challenged this letter dated January 15, 1993 as illegal, void and against the principles of natural justice and on various other counts. The grievance of the plaintiff-appellant was that the demand raised by the defendant-respondents is not valid as the said demand is not on account of any award given by the competent Authority under the Land Acquisition Act and the defendant-respondents cannot revoke the allotment made in his favour. The plaintiff-appellant made a request to the defendant-respondents to revoke the letter dated January 15, 1993 but the defendant-respondents refused to do so. Therefore, the plaintiff-appellant was completed to file the present suit with prayer for a declaration to the effect that the letter dated January 15, 1993*

[3] (2005) 3 SCC 207

in respect of Plot No. 940, Sector 14, Part, Hisar issued by defendant No.2 is illegal, void and liable to be set aside and he also prayed for consequential relief for permanent injunction restraining the defendants from revoking, reviewing or cancelling the allotment letter issued by the defendants vide Memo No. 21548 dated August 20, 1986 and from taking any action on the basis of the aforesaid letter. The plaintiff-appellant also sought for temporary injunction directing the defendant-respondents to deliver the possession of the plot.

5. We have heard learned counsel for the parties and perused the records. There is no gainsaying that as per condition No.9 of the allotment order the price in question was only tentative. But the condition is qualified that in case any award is given by the Land Acquisition Officer the price can be enhanced. Condition No.9 reads as under:

> *"The above price is tentative to the extent that any enhancement in the cost of land awarded by the competent authority under the Land Acquisition Act shall be payable proportionately as determined by the authority. The additional price determined shall be paid within thirty days of its demand."*

As per this condition enhancement could be made on the cost of the land as per the award by the competent authority under the Land Acquisition Act. But no such award was given by the Land Acquisition authority. In a suit a duty is cast on the defendants to lead evidence to show that increase on the cost of the land is necessitated because of enhancement of paying higher rate of compensation to the Animal Husbandry Department. But no such evidence was led in the suit. D.W.1 nowhere stated that this enhancement was warranted because Animal Husbandry Department had to be paid compensation at higher rate for acquisition of this land. It may be that because of decision given by the Punjab and Haryana High Court, it enabled the defendants to claim higher price for allotted plot. In a civil suit all facts have to be pleaded and proved. But in the present case, there is no evidence to substantiate the allegation. It was incumbent on the part of

the Haryana Urban Development Authority to substantiate the same by leading proper evidence that the enhancement was effected on account of increase in the price of acquisition of land. But the statement of DW-1, the only evidence which has been led by the defendant/respondent is significantly silent on this issue. In civil matters, the rights of the parties cannot be determined just on the basis of any other judgment on questions of fact. It is the duty of the defendants to specifically plead and prove their case by leading proper evidence in the matter. As per the evidence led by the defendant/respondent i.e. the documentary evidence as well as the oral evidence, the allegations made by the defendants are not substantiated. So far as condition no.9 of the allotment letter is concerned, there is no dispute that the defendants can demand additional price as the price at the time of allotment was tentative. But in order to justify the enhancement of the price as per condition No. 9 of the allotment letter, the defendants had to lead proper evidence to substantiate the allegation. There is no such evidence produced by the defendants. Therefore, the trial court has rightly approached in the matter and this is a case of total misreading of the evidence by the learned Additional 'District Judge as well as by learned Single Judge of the High Court.

6. In the result of our above discussion, we are of the opinion that the order passed by the trial court is justified and the view taken by the Additional District Judge as well as learned Single Judge of the High Court in the facts and circumstances of this case does not appear to be justified. Hence, we allow this appeal and set aside the order passed by the learned Single Judge of the High Court as well as the order passed by the Additional District Judge, Hisar and confirm the order dated March 27, 1996 passed by the trial court. No order as to costs."

19. The issue sought to be raised before this Court was referring to the letter dated 01/12/1992 which according to the Appellants shows the amount required to be paid by the Appellants to the Animal Husbandry Department for the land transferred to Sector-14, (Part), Hisar. The idea to show the letter was that in fact the amount required to be paid

for transfer of land was ₹3,00,000 instead of ₹1,21,000/- per acre. The fact remains that the aforesaid document has been referred to and considered by this Court in ***Sanjay Gera's case (supra)*** and no merit was found in the arguments raised.

20. In the case in hand, the civil suit was filed on 1.10.2003 by the Respondent challenging the demand of additional price. Judgment of this Court in Sanjay Gera's case was delivered on 22.02.2005. Despite this fact being in knowledge of the Appellants, the suit was contested and the same was decreed on 19.08.2008. The matter did not end here, appeal was preferred by the appellant before the First Appellate Court and on failure even before the High Court and thereafter before this Court. For the aforesaid reasons and wasting the time of the Courts at different levels, we deem it appropriate to burden the Appellants with cost of ₹1,00,000/- to be deposited with the Supreme Court Mediation Centre.

21. In addition, the Respondent having been dragged in unnecessary litigation upto this Court deserves to be awarded cost of ₹50,000/-.

22. The aforesaid amount shall be recovered by the Appellants from the guilty officers/officials who opined the case to be fit for filing appeal at different levels despite being covered by judgment of this Court.

23. The additional amount sought to be recovered from the Respondent was ₹26,880/-to which there was no justification even at the stage of issuance of notice. The suit was decreed on 19.08.2008. The amount spent on litigation would be much more. It is because of impersonal and irresponsible attitude of the officers, who want to put everything to Court and shirk to take decisions. However, still the Appellants had not only filed appeals, resulting in addition to the pendency of cases and also must have spent huge amount on litigation in the form of fee of the counsels and allied expenses. Besides that, number of officer(s)/official(s) must have visited the counsel engaged either at Chandigarh, when the matter was taken up in the High Court and thereafter to this Court, when the order was challenged before this Court. Even that amount also needs to be calculated and recovered from the guilty officers who, despite there being judgment of this Court, dealing with the same issue opined the case to be fit for filing appeals.

A 24. For the aforesaid reasons, the appeal is dismissed. The amount of cost be deposited in Supreme Court Mediation Centre and paid to the respondent within two months from today and regarding cost of litigation, needful shall be done within six months. Affidavit of compliance to be filed in this Court.

Nidhi Jain Appeal dismissed.
(Assisted by : Mayank Batra, LCRA)