

Haryana State Industrial Development Corporation Ltd.

Vs

Inderjeet Sawhney

Civil Appeal Nos. 2078- 2079 of 1996

(J.S. Verma, B.N. Kirpal JJ)

18.01.1996

JUDGEMENT

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KIRPAL, J.:-

1. Leave granted.

2. In this appeal, by special leave, there is challenge to two judgments of the Punjab and Haryana High Court, the first being judgment dated 14-11-1994 whereby the respondent's writ petition was allowed and the appellant was directed to allot a plot of land measuring half acre and the second judgment is dated 9-8-1995 whereby the Review Application filed by the appellant herein, was dismissed.

3. The relevant facts are that the appellant is a Government company which is, inter alia, engaged in carrying out activities towards the advancement of industrial development in the State of Haryana. In the course of its activities, in 1983 it invited applications for allotment of certain plots of land to set up industrial units in Gurgaon. The respondent applied for an industrial plot in Phase-IV, Udyog Vihar, Gurgaon for setting up a unit to manufacture reinforced concrete cement pipe and accessories. Allotment of plot of one acre in favour of the respondent was approved and he was requested to deposit 15% of the cost of land vide letter dated 27-10-1983. On the said 15% having been deposited by the respondent, he was offered an industrial plot No. 359 measuring one acre in Udyog Vihar, Phase-IV Gurgaon at the tentative rate of Rs. 120/- per sq. metre. A provisional letter of allotment dated 27-12-1984 was issued and it was made clear therein that the respondent was required to fulfil certain prerequisites connected with the implementation of the proposed project before the final allotment could be made in his favour. These pre-requisites were to be completed within 120 days of the date of allotment. This letter further stipulated that the provisional letter of allotment will not give any legal right of allotment unless the final allotment letter is issued.

4. It is the case of the appellant that the respondent neither complied with the formalities, as contemplated by the aforesaid letter dated 27-12-1984 within the time schedule nor deposited any further amount with the appellant. According to the appellant, for administrative reasons the industrial plot No.359 which had been allotted to the respondent was changed to two plots measuring half acres each and renumbered as Plots Nos. 374-375. Another provisional letter of allotment dated 5-11-1986 was written to the respondent stating therein that it had been decided to offer him industrial plots Nos. 374-375 measuring one acre at the tentative rate of Rs.120-60 per Sq. yard. But, before the allotment was issued in his favour, he was required to comply with certain pre-

requisites enumerated in the said letter of allotment which were connected with the implementation of the respondent's proposed project. These pre-requisites included the unit being registered with the appropriate authority, drawing of the unit approved, building and machinery being sanctioned and list of plant and machinery to be installed at the unit. These pre-requisite formalities were required to be completed within 120 days of the said letter dated 5-11-1986 and it was stipulated that if this was not done within the specified time, then the provisional letter of allotment shall be treated as having been withdrawn, unless its validity was extended in writing by the Corporation. It was again mentioned in the letter dated 5-11-1996 that the said letter shall not give the respondent any legal right for allotment unless the final allotment is issued.

5. Soon after the despatch of the letter dated 5-11-1986, the appellant learnt that the aforesaid plots Nos. 374-375 were not available and had been wrongly offered to the respondent. The respondent was, accordingly, informed vide letter dated 10-11-1986 that the plots Nos. 374-375 had been wrongly mentioned in the provisional letter of the allotment dated 5-11-1986 and that the respondent's case for allotment of alternative plot of one acre had been considered and approved but the plot number would be intimated shortly. Therefore, it seems that discussion took place between the appellant and the respondent regarding the allotment of one acre plot. The case of the appellant is that a mutual agreement was arrived at as a result of which letter dated 5-1-1989 was written by the appellant to the respondent whereby the respondent was offered a half acre plot in Udyog Vihar, Phase-IV at the old rate of Rs.120/- per sq.metre. It was further stated in this letter that with this offer of half acre of plot at Rs.120/- per sq. metre " the present cases will be treated as closed thereafter" and request for additional space would be considered on submission of a fresh application, but the rate of land will be at the rate prevailing at that time. The respondent was requested to confirm the acceptance of an area of 2000 sq. metres for the proposed project and this acceptance was required to be given within 15 days of the issue of the said letter. Vide letter dated 14-1-1989 the respondent conveyed his acceptance of half acre plot and observed as follows :-

"However, I accept 1/2 acre plot as desired by you in the letter dated 5-1-1989 mentioned above at the original rates, but reserve the right to claim further 1/2 acre plot. It may be mentioned that I have deposited the required money for 1 acre plot".

6. On the receipt of the aforesaid reply, a formal provisional letter of allotment dated 24-2-1989 was issued to the respondent whereby two industrial plots Nos. 1 and 2 measuring 1000 sq. metres each at Udyog Vihar, Phase-IV at the tentative rate of Rs.120/- per sq.metre was proposed to be allotted to the respondent. By this letter, the respondent was again required to complete the pre-requisites connected with the implementation of the respondent's project and he was also asked to convey his acceptance to the conditions within 30 days.

In this letter, it was further stated as under :-

"Reverting to your letter of 14th January, 1989, we would like to clarify here that this offer for 1/2 acre size plot has been made in your favour as per the consent you given to our Managing Director during the course of discussion on 3rd December and it will not be possible to give you any more plot against this application. However, you are at liberty to apply for plot against our further advertisement on new rates and on terms and conditions prevalent at that time and in that event your case will be considered along with others on merits.

You may please note that since the plot has been offered to you at the old rate of

Rs.120/- per sq.metre, the corporation shall not be in a position to accede to any of your request for transfer of plot and that you are required to implement your project within one year from the date of issue of allotment letter. In the end, we remind you to complete the conditions mentioned at (i) to (ii) and furnish us proof thereof within the stipulated period to enable us to issue the allotment letter". (emphasis added).

7. In response to the aforesaid provisional letter of allotment dated 24-2-1989, the respondent wrote a letter dated 4-3-1989 in which it was stated as follows:

"Offer of half acre plot Nos. 1 and 2 measuring 1000 sq. metres each (total 2000 sq. metres) is acceptable, I am in touch with the District Industries Centre, Divisional Town Planner and Haryana Financial Corporation. I hope to complete all the formalities very soon".

8. On the receipt of the aforesaid letter, a final letter of allotment dated 6-7-1990 was issued to the respondent. This was followed by the signing of an agreement between the parties after which the possession of the said plots was handed over to the respondent on 4-9-1990.

9. The respondent then filed a Writ Petition No. 5123 of 1994 in the Punjab and Haryana High Court. Basing his claim on the earlier provisional allotment letter dated 27-12-1984, the respondent, inter alia, prayed that the appellant herein should and ought to deliver the remaining half acre of plot. The appellant herein contended that the letter dated 27-12-1984 had been superseded and a fresh agreement had been entered into between the parties after the respondent herein had accepted 2000 sq. metres of land which had been allotted to him. It was also stated that one of the conditions of allotment vide letter dated 6-7-1990 was that the unit was to be set up within two years from the date of allotment but the respondent had even failed to utilise the plots of land which had been handed over to him.

10. The High Court by its judgment dated 14-11-1994 came to the conclusion that there was no reason shown by any correspondence on record as to why the area of the plot which was to be allotted to the respondent vide allotment letter dated 24-12-1984 had been reduced. It did not accept the contention of the appellant herein that while accepting plot Nos. 1 and 2 measuring 1000 sq. metres each, the respondent had given up his right for the remaining half acre of land. The High Court, accordingly, directed the appellant to allot the remaining half acre of plot within a specified period.

11. Thereafter, Review Application No. 411995 was filed by the appellant herein but the same was dismissed by judgment dated 9-8-1995.

12. From the facts as narrated above, it appears that the High Court erred in directing that a further plot of half acre should be allotted to the respondent. The High Court did not appreciate that the correspondence on record of the case clearly shows that the respondent was estopped from making the claim for a further area of half acre after he had accepted the allotment of plots Nos. 1 and 2 measuring 2000 sq. metres in total. In the present case even though in the letter dated 27-12-1984 the respondent had been offered a plot of land measuring one acre yet by subsequent letter dated 5-1-1989, a revised offer was made whereby he was offered a plot measuring half acre at the old rate of Rs.120/- per sq. metre as a special case. In this letter, it was stated that while making this offer the case would be considered as closed and the respondent was requested to confirm the acceptance of the area of 2000 sq. metres. Vide letter dated 14-1-1989, a conditional acceptance was conveyed

by the respondent whereby he had stated that he accepted the half acre of plot but he reserved the right to claim further half acre of plot. To this, the appellant wrote letter dated 24-2-1989 against stating that half acre of land was offered to him and that he was clarified that this offer was made in his favour as per the consent given by him to the appellant's Managing Director during the course of discussion on 3-12-1990. It is in response to this letter seeking the aforesaid clarification that the respondent wrote the letter dated 4-3-1989 wherein he unconditionally accepted the plot Nos. 1 and 2. It is only thereafter that the formal allotment letter dated 6-7-1990 was issued to him which was followed by a formal agreement and handing over possession of the said plot Nos. 1 and 2 to the respondent. There can be no manner of doubt that the appellant had categorically stated that it was unable to offer the respondent an area larger than half an acre and acceptance of this was insisted upon and the same was given by the respondent vide letter dated 4-3-1989. Had this unconditional acceptance not been given, it would appear, the appellant would not have made the allotment in favour of respondent.

13. It is further to be borne in mind that the letter dated 27-12-1984, on which reliance is placed by the respondent and on the basis of which the High Court had given relief, it was stated that the said letter was only a provisional letter of allotment and it was specifically mentioned therein that the same "shall not give you any legal right for allotment unless a final allotment letter is issued". There was, therefore, no final commitment to allot one acre of land to the respondent and the High Court clearly misconstrued the said provisional letter of allotment to mean as if the respondent had acquired a vested right to obtain an allotment of one acre of land.

14. The respondent was not only estopped from claiming an additional half acre of land but even the letter dated 27-12-1984 did not give the respondent any legal right to insist upon the allotment of one acre of land because the only letter of final allotment which was issued in favour of the respondent, was the one dated 6-7-1990 whereby only half acre of land was allotted and the said allotment was accepted by the respondent without demure, till he chose to file the Writ Petition four years thereafter.

15. In view of the above, the appellant was not liable to allot an additional half acre of land to the respondent to whom plots Nos. 1 and 2 at Udyog Vihar, Phase-IV, Gurgaon measuring 2000 sq. metres had already been validly allotted.

16. For the aforesaid reasons, this appeal is allowed and the judgments of the High Court dated 14-11-1994 in C.W.P. No. 5123/1994 and dated 18-8-1995 in Review Petition No. 41 of 1995 are set aside, the result of which would be that the Writ Petition filed by the respondent before the High Court would stand dismissed. Parties to bear their own costs. Appeal allowed.