

SUPREME COURT OF INDIA

Baljit Singh

Vs.

Improvement Trust Ludhiana

C.A.No.9 of 2009

(Altamas Kabir and Markandey Katju JJ.)

06.01.2009

JUDGMENT

Altamas Kabir,J.

1. Leave granted.

2. Can a person who is a transferee of a plot of land allotted to the transferor by the Improvement Trust, Ludhiana, claim a right to continue with such allotment even after the same is cancelled, particularly when such transfer was effected with the approval of the Trust, is the question for consideration in the instant appeal.

3. There is no dispute that on 28th October, 1982, one Smt. Shammi Verma was allotted plot No.94-D in the Development Scheme of 256 Acres at Balmik Nagar, Ludhiana, under Memo No.9913 dated 26th October,1982 issued by the Improvement Trust, Ludhiana. Although, Smt. Verma deposited the amounts which were required to be paid against such allotment, she was informed by the respondent No.1 by its letter dated 2nd January,1989,that the Trust was unable to make over possession of the plot to her. Subsequently, Smt. Verma was allotted another plot, being No.91-B and an agreement to sell was also executed in her favour.

4. On 11th May,1989, the appellant herein acquired the said plot No.91-B from Smt. Verma and such transfer was also permitted by the Trust. Surprisingly, however, three months later on 14th August, 1989, when the appellant applied for approval of the site plan submitted by him, he came to learn that the allotment of plot No.91-B in favour of Smt. Shammi Verma had been cancelled on the ground that such allotment had been made by one Shri S.S. Mann, who was not competent to make such allotment. The appellant allegedly made various representations to the respondent Trust and also to the Government and on consideration thereof the Trust was directed by the Government to restore the plot in question to the appellant and consequently the allotment in favour of Smt. Verma stood restored. It is the case of the appellant that since the interest of Smt. Verma devolved upon him as her approved transferee, possession of plot No.91-B ought to have been made over to him.

5. However, since the appellant was unable to obtain any relief from the respondents, he filed Civil Writ Petition No.17103 of 2003 before the High Court seeking directions upon the respondents to allot any alternative plot to the appellant in lieu of plot No.94-D in Balmik Nagar, Ludhiana. While disposing of the writ petition on 31st October, 2003, the High Court directed the respondents to pass an appropriate speaking order on the appellant's representation within four months from the date of the order upon production of a certified copy thereof. Pursuant to the said directions, the Chairman of the Trust heard the appellant on 11th February, 2004, but rejected his claim on the ground that although the plot in question had been allotted to Smt. Shammi Verma as a Local Displaced Person, she was not the owner of any portion of the land acquired by the Trust and was not a Displaced Person, which was the eligibility criteria for coming under the Scheme. Even the subsequent change in the allotment was effected by an officer who was neither authorized nor entitled to do so.

6. The decision of the Chairman of the Trust was challenged by the appellant in Writ Petition No.11844 of 2004, wherein various reliefs were prayed for and in particular for restoration of plot No.91-B, Rajguru Nagar, Ludhiana. On being served with notice, the respondents herein filed their written statement on 23rd December, 2005, claiming that since the predecessor-in-interest of the appellant was ineligible for allotment of the plot in her name, the appellant could not get a better right than she enjoyed in respect of plot No.91-B subsequently offered to her in lieu of plot No.94-D.

7. The High Court dismissed the writ petition by holding that the appellant did not have any independent right in the plot and as a transferee his fortunes depended on the fortunes of the transferor. The High Court having dismissed the civil writ petition, any claim made by the appellant either over plot No.94-D or plot No.94-B also stood rejected. However, according to the appellant, since a mistake had been committed by the respondents themselves at the initial stage and various transactions had already taken place in respect of the plot in question, the cancellation of the allotment which stood transferred to the appellant with the permission of the Trust and its authorities, was unacceptable. However, as indicated hereinbefore, the said argument did not find favour with the High Court, which dismissed the writ petition, which has given rise to the present appeal.

8. On behalf of the appellant it was urged that the transfer effected in his favour with the approval of the Trust created an interest in the plot in his favour which was independent of and not dependent on the allotment made in favour of Smt. Shammi Verma. It was urged that after the transfer was effected in his name on 11th May, 1989, a fresh right accrued in the appellant's favour and Smt.Verma ceased to have any interest in the plot thereafter and, in any event, she had no subsisting right in the plot on 14th August, 1989, when the allotment was cancelled.

9. It was also urged that the amounts deposited for allotment of the plot had yet to be refunded and if the respondents were determined to re-allot the plot on fresh terms, the appellant was willing to pay any additional amount that might be imposed to retain the plot or even for a fresh allotment in his name, in the special facts of the case.

10. The submissions made on behalf of the appellant were vehemently opposed on behalf of the respondents and on their behalf it was maintained that since the predecessor-in-interest of the appellant, Smt. Shammi Verma, was not eligible for allotment of any plot under the Scheme, the allotment had been rightly terminated and the appellant could not derive any right thereto on account of the transfer made in his favour. According to the respondents, the appellant would have to sink or swim with the fortunes of his transferor as no independent right had been acquired by him by virtue of such transfer.

11. Having considered the submissions made on behalf of the respective parties and the materials on record, we are unable to accept the case as made out on behalf of the appellant. We agree with the Chairman of the Trust that notwithstanding the fact that the transfer of the plot in favour of the appellant had been duly approved by the Trust, the appellant did not acquire any independent right in the plot and he only acquired whatever rights the transferor or the original allottee had therein. The position may have been different if after the transfer a fresh allotment had been made in favour of the appellant. The defect in the allotment made in Smt. Shammi Verma's favour, on account of her ineligibility to avail of the Scheme for rehabilitation of Locally Displaced Persons, was inherited by the appellant as her transferee. The view taken by the Chairman of the Trust in his order dated 11th February, 2004 and affirmed by the High Court, cannot be faulted. However, since the transfer was affected in the appellant's favour with the approval of the Trust before the allotment was cancelled, the appellant's case could have been treated differently in the special facts thereof. While the allotment of the plot was made in Smt. Verma's favour on 28th October, 1982, it was after almost seven years that the order of cancellation of such allotment was passed by the Trust, during which period not only had the allotment been altered from one plot to another plot, but even the transfer in favour of the appellant had taken place.

12. We, accordingly, dispose of the appeal by modifying the judgment and order of the High Court dated 30th January, 2006, and the order of the Chairman, Improvement Trust, Ludhiana dated 11th February, 2004, and directing the said Chairman to reconsider the case of the appellant in the light of the submissions made on his behalf that he was willing to pay such additional amount as may be levied for a fresh allotment of the plot in question in his favour, after giving the appellant a reasonable opportunity of being heard, in the event the said plot has not been re-allotted in the meantime. Such consideration must be completed by the Chairman of the Trust within two months from the date of communication of this order and in the event the plot in question has not been re-allotted, the same shall not be re-allotted until a decision is arrived at in terms of the directions given in this order.

13. In the facts of the case, the parties will bear their own costs.