

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).15195/2009

(From the judgement and order dated 17/09/2008 in CWP No. 16546/2008 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARYANA URBAN DEVT.AUTHORITY Petitioner(s)

VERSUS

HANS RAJ & ORS. Respondent(s)

(With prayer for interim relief and office report)

Date: 19/07/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. Ashok Mathur,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

In terms of the signed order, we allow this appeal, set aside the order of the High Court dated 17.9.2008 and remand the matter to the High Court with a request to dispose of the Writ Petition in accordance with law.

(Ravi P. Verma) (M.S. Negi)
Court Master Court Master
[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5663 OF 2010
[Arising out of SLP(C) No.15195/2009]

HARYANA URBAN DEVELOPMENTAPPELLANT
AUTHORITY

Versus

HANS RAJ & ORS.RESPONDENTS

O R D E R

Leave granted. Heard the counsel.

2. The appellant (HUDA) allotted a plot to the first respondent on 24.2.1988 and the price was payable in certain instalments. On the ground that instalments were

not paid, HUDA resumed the plot on 27.5.1996.

The appeal

filed by the allottee as also the subsequent revision filed by the allottee were dismissed.

3. The first respondent thereafter filed a writ petition challenging the resumption. The High Court directed the standing counsel for HUDA to take notice on the date of preliminary hearing, did not give any opportunity to HUDA to file its counter, straightaway allowed the petition directing reallocation of the plot at the prevailing price with a further direction that if the said plot had been allotted to someone else, then to consider the case of the first respondent for allotment of an alternative site. The said order is challenged in this appeal by special leave.

.....2.

- 2 -

4. The procedure adopted by the High Court, to say the least, was improper. When the respondent is a statutory authority having a standing counsel, and he takes notice on the direction of the Court, sufficient time should be granted to enable him to secure instructions from the Authority and file a counter. The High Court could not assume merely because it had decided some similar case, that the authority would have no defence and dispose of the petition without due opportunity to the authority to put forth its case. Further, having regard to the nature of the case, the decision would depend upon the facts, the nature and extent of default, availability or alternative plot, rights/liabilities under the contract etc. The order is, therefore, opposed to principles of natural justice and liable to be set aside.

5. In view of the above, we allow this appeal, set

aside the order of the High Court dated 17.9.2008 and
remand the matter to the High Court with a request to
dispose of the Writ Petition in accordance with law.

.....J.
(R.V. RAVEENDRAN)

New Delhi;J.
July 19, 2010. (H.L. GOKHALE)