



हरियाणा शहरी विकास प्राधिकरण

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HARYANA URBAN
DEVELOPMENT AUTHORITY

NO.HUDA-CCF-ACCTT-II-2016/- 101931,33

Address: C-3 HUDA HQ Sector-6,
Panchkula

DATED:- 31/10/16


To

1. Sh. Kanwal Rampal,
Flat No. 85, GH-80,
Sector-20, Panchkula.
2. The Bureau's Unique Coop.,
GH Society, GH-80, Sector-20,
Panchkula.

**Subject:- COCP No. 2136 of 2016 in CWP No. 2983 of 2016 –
Kanwal Rampal Vs Sh. P. Raghavendra Rao and others.**

1. Please refer to the subject cited above.
2. Please find enclosed herewith the copy of speaking order No. 9/2016 passed by the Committee in case of CWP No. 2983 of 2016 titled as Kanwal Rampal Vs State of Haryana and others (Flat No. 85, GH-80, Sector-20, Panchkula), in compliance of Hon'ble High Court vide order dated 15.02.2016.


DA/As above:


Sr. Accounts Officer,
For Chief Administrator,
HUDA, Panchkula

Endst.No.HUDA-CCF-Acctt-II-2016/-101934 Dated:- 31/10/16

3. A copy of the above is forwarded to the following Estate Officer, HUDA, Panchkula for information and necessary action.

DA/As above:


Sr. Accounts Officer,
For Chief Administrator,
HUDA, Panchkula

Passed in compliance with the orders of Hon'ble Punjab & Haryana High Court in CWP No. 2983 of 2016.

1. This speaking order is passed in respect of Sector-20, Panchkula in compliance of the orders dated 15.2.2016 of Hon'ble Punjab & Haryana High Court in CWP No. 2983 of 2016 titled as Kanwal Rampal vs State of Haryana and others (Flat No. E-85, GH-80, Sector-20, Panchkula). The orders dated 15.2.2016 are reproduced as under:-

"This case is similar to the case of Urmila Devi and others Vs Haryana Urban Development Authority and another, CWP-17846-2013, which was disposed of by an order and judgment of the Division Bench of this Court dated 28.05.2015. The Division Bench granted the petitioners an opportunity to file a detailed representation with respect to the demand and directed the official respondents to consider and dispose of the same by a speaking order and after granting the petitioners therein an opportunity of being hear. This petition is disposed of in the same terms as CWP-17846-2013".

Records of Personal hearing

3. As per the orders of the Hon'ble High Court, personal hearings in the case was held on 18.5.2016 before CA HUDA. During hearing, the petitioners submitted a representation dated 22.1.2016 and 9.3.2016 and requested to pass the speaking orders on the points raised in his representations.

Discussions and Findings

4. There is a lot of litigation and queries from the plot owners about the manner of determination of additional price. A need has been felt to notify the procedure required to be followed while determining the additional price under Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulations, 1978. Therefore, a policy has now been approved by the HUDA Authority in its 111th meeting held on 27.7.2016 at Agenda item No.22. For the guidance of the public, the guiding principles on the basis of which enhancement is calculated by HUDA are available on HUDA Website under the link

[https://www.huda.gov.in/ layouts/CCF/Policy regarding recovery of enhanced compensation from allottees in case of sale of land or building by allotment.pdf](https://www.huda.gov.in/layouts/CCF/Policy%20regarding%20recovery%20of%20enhanced%20compensation%20from%20allottees%20in%20case%20of%20sale%20of%20land%20or%20building%20by%20allotment.pdf)

Discussions and findings

5. Gist of findings on the issues raised by petitioner in his representation dated 9.3.2016 are as under:-

5.1 HUDA had issued the recovery notices of enhanced compensation in respect of Sector-20, Panchkula as and when the payments of enhanced compensation were made to the concerned land owners pertaining to the Awards announced for the development of Sector-20, Panchkula. Detail of recovery notices are as follows:

- (i) First recovery for Rs. 687.80 per sq.yd. issued by Estate Officer, HUDA in Sept., 2002.
- (ii) 2nd recovery for Rs. 2276.82 per sq.mtr. (Rs. 1903.69 per sq.yd.) issued by Estate Officer, HUDA in July, 2010.
- (iii) A representation from Joint Action Committee of Group Housing Societies of Sector-20, Panchkula was received against the recovery of 2nd enhancement of Sector-20, Panchkula. Thereafter, recovery of 2nd enhancement was revised and conveyed to Estate Officer, HUDA, Panchkula vide this office letter No. HUDA-CCF-Acctt-II-2011/15353 dated 06.05.2011 as below:-

"As per revised calculations the rate of recovery of 1st enhancement worked out to Rs. 530.47 per sq.yd. instead of Rs. 678.80 per sq.yd. whereas the rate of recovery of 2nd enhancement was worked out to Rs.1747.10 per.sq.yd. against the recovery rate of 1903.69 per.sq.yd. The excess recovery of 1st enhancement of Rs. 148.33 per sq.yd. was updated with interest from 1.10.2002 to 10.6.2010 i.e. from the date of calculation of 1st enhancement till the date of calculation of second enhancement @15% p.a. and it worked out to Rs. 319.46 per sq.yd. After giving the credit of Rs. 319.46 per sq.yd. the net rate of recovery of 2nd enhancement was worked out to Rs. 1427.64 per sq.yd.(i.e. 1747.10-319.46) for which the revised notice has earlier been issued subject to the following conditions:-

- a) *The first rate of recovery of enhanced compensation of Rs. 678.80 remained intact as the credit of excess rate of recovery of Rs. 148.33 per sq.yd. has already been given in the 2nd recovery of enhanced compensation alongwith interest @ 15% p.a. from 1.10.2002 to. 10.6.2010.*
- b) *The allottees who had paid the extra amount due to decreased rate of recovery of 2nd enhanced compensation, were required to be refunded the excess amount alongwith interest @ 15% per annum (simple),from the date of deposit till the date of refund.*
- c) *The allottees, who had not paid the amount were required to be charged the rate of interest @ 15% per annum on the reduced rate of 2nd recovery from the date of original notice of 2nd enhancement.*

5.2 The additional price on account of the enhanced compensation to be recovered from allottees of Sector-20, Panchkula was prepared on the basis of award of Hon'ble ADJ, Panchkula @ Rs. 160/- sq. yd. and Rs. 250/- per sq. yd. The same was conveyed to Estate Officer, HUDA, Panchkula vide this office letter No. HUDA-CCF-Acctt-II/2002-24288 dated 11.09.2002 for recovery from allottees. Further, on the basis of award of ADJ, Panchkula dated 10.12.2008 @ Rs. 394/- per sq. yd., the recovery of differential amount @ $394-160=234/-$ per sq. yd. and $394-202.45=191.55$ Per sq. yd. conveyed to Estate Officer, HUDA, Panchkula vide this office letter No. HUDA-CCF-Acctt-II-2011/15353 dated 06.05.2011. The recovery amount of 1st enhancement is automatically adjusted in the recovery statement of 2nd enhancement.

5.3 HUDA is bound to follow the area calculation by the DTP in respect of the sector layout. As per report received from DTP, Panchkula on 4.10.2016, total area under various utilities for Sector-20 (Part-I) Panchkula is as under:-

Sr.No.	Land use Area	Old Area (in acres)	New Area (in acres)
	Total area acquired		254.75
i)	HUDA land given to Samar Estate		2.832
ii)	Land given by Samar Estate		1.978
iii)	Difference of i & ii		0.854

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	above		
	Net Planned Area		253.896
1.	Plots(GH Sites)	101.4	96.24
	Area reserved for HUDA		6.85
	Area under Mandi		20.00
	Area Under Ashiana Scheme		1.76
2.	Commercial	22.39	21.67
	Area under public and semi public		6.00
	School/Crèches	11.87	12.20
4.	Dispensary	1.25	1.25
5.	Police Station		2.10
6.	Telephone Exchange		1.00
	Religious Building	0.20	0.33
7.	Community Centre	2.00	2.00
8.	Electric Sub Station	0.80	0.8
9.	Water works	6.25	6.25
	HUDA staff quarters		1.09
	Petrol pump		0.22
	Tubewell		0.71
10.	Roads/Parks/Green Belt	46.50	73.426

The earlier existing calculations of additional price had been done on the basis of above land utilization in Sector-20 (Part-I), Panchkula.

5.4 The petitioner has contended that burden of IDC/EDC, parking, shopping complex, private builders, HUDA land have been uploaded on the poor society members. In this regard, it is clarified that

- (i) As per **regulation -2 (b) of The Haryana Urban Development (Disposal of Land & Building) Regulations, 1978**, "ADDITIONAL PRICE" is determined on account of the enhancement of compensation of any land or building in the same sector by the Court on a reference made under section 18 of the Land Acquisition Act, 1894 . Once the enhancement has been

ordered by the Court, HUDA is bound to pay the same to the land owners. In turn, same burden is passed to the HUDA allottees in the form of demand of additional price on account of enhancement.

- ii) That while making the calculations of additional price of Sector-20, Panchkula, the differential enhancement has been proportionately off loaded on the total saleable area of the sector (sold both by allotment or auction). This automatically implies that common (non-saleable) area has been proportionally off loaded on the total saleable area of the Sector.
- iii) That there are two tiers of development process in an urban estate. The first tier relates to providing and integration of town level facilities and services under external development works. This component is funded through levy and recovery of external development charges (EDC). The charges on account of external development works are divided proportionately on all the sectors in the urban estate i.e. both private colonizers as well as HUDA plot owners. The second tier relates to facilities within the sector under internal development works, this is recovered in the form of internal development charges (IDC). But charges on internal development works are to be accounted for under "Development Cost" in the price fixation formula for the sector. Therefore, common facilities of only external development works can be charged to the private builders proportionately in the form of EDC levied by the DGTCP at the time of grant of license. The internal development works within the private licensed area are borne by the private builders. Similarly internal development works within the HUDA allottees area are to be borne only by the HUDA allottees.

5.5 The petitioner has stated that the demand was also held to be arbitrary by virtue of acceptance of State RFAs (RFA 4686 of 2009 and connected State appeals) by the Hon'ble High Court vide judgment dated 5.11.2012 passed in RFA No. 2695 of 2002. The Govt. of Haryana contested through various RFAs that the EC amount awarded by the Hon'ble Session Court is unjustifiable. As the RFAs of State Government were allowed, therefore, the demand of enhanced cost of land from the residents of Part-I of Sector-20, Panchkula is not tenable.

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In this regard, the Committee finds that Hon'ble Supreme Court of India by its orders dated 17.2.2015 in the Civil Appeal No.s 2231-2242 of 2015 (Airsing out of SLP(C) Nos. 26432-26443 of 2013) in the matter of Ashok Kumar & Ors Vs. State of Haryana has restored the compensation awarded by the Reference Court i.e. Rs. 394/- per sq.yds. Therefore, no benefit can be given to the petitioners on the grounds that Punjab & Haryana High Court has reduced the compensation awarded by the Reference Court.

6. It is also pertinent to mention here that the issues raised by the petitioner in his representation are almost similar as raised by the petitioners of CWP No. 14689 of 2010 & 17239 of 2010 in respect of Sector-20, Panchkula in the matter of The Angel Co-operative Group Housing Society Ltd. (GHS No.103) & Sharanjit Singh & others (GHS No. 102). Speaking orders have already been passed in compliance of the orders dated 25.09.2013 of Hon'ble Punjab & Haryana High Court in these civil writ petitions and same is very exhaustive and covers all the relevant points in detail in respect of the issues raised by the present petitioner thus the same are not discussed in detail separately to avoid repetition. The same may be read as part and parcel of the present speaking order as they relates to the same Sector i.e. Sector-20, Panchkula where the petitioner's Flat No. E-85 (GH-80) also exists.

7. The speaking order is available on the website of HUDA under the link https://www.huda.gov.in/layouts/CCF/Speaking_order_of_sec_20_panchkula.pdf

8. The Calculations of additional price of Sector-20, Panchkula have been made reviewed and found as per the latest approved HUDA policy (*Supra*).

9. Therefore, the demand notices issued by the Estate Officer, HUDA, Panchkula are strictly in accordance with the terms and conditions of the allotment letter and policy of HUDA. Accordingly, the representation is disposed of in compliance of Hon'ble Punjab & Haryana High Court order dated 15.2.2016.


CAO (HQ), HUDA
Panchkula


CCF, HUDA
Panchkula


Chief Administrator,
HUDA, Panchkula.