

## HARYANA SHAHARI VIKAS PRADHIKARAN

Memo No.HSVP/CCF/Acctt-II/2018/164540

Dated: 14/08/18


To

The Welfare Society,  
#609, Sector-9, District Jind.

**Subject:- Speaking order passed in compliance of the order issued by the Hon'ble High Court in CWP No.25700 of 2017 titled as Sector-9, Welfare Socceity, Jind Vs State of Haryana and others.**

1. Please refer to the subject cited above.
2. Please find enclosed herewith the copy of speaking order No. 19/2018 passed by the Administrator, HSVP (HQ), in case of CWP No. 25700 of 2017 titled as as Sector-9, Welfare Socceity, Jind Vs State of Haryana and others, in compliance of Hon'ble High Court vide order dated 13.11.2017.

DA/As above:


  
Chief Accounts Officer,  
For Chief Administrator,  
HSVP, Panchkulae

Endst.No.HSVP-CCF-Acctt-II-2018/164545 Dated: 14/8/18

A copy of the above is forwarded to the following for information and necessary action please:-

- i. The Esate Officer, HSVP, Jind.
- ii. The District Attorney, HSVP, Panchkula.

DA/As above:

  
Chief Accounts Officer,  
For Chief Administrator,  
HSVP, Panchkulae

This speaking order is being passed in compliance of the orders dated 13.11.2017 of Hon'ble Punjab & Haryana High Court in **CWP No.25700 of 2017 titled as Sector-9 Welfare Society Jind V/s State of Haryana and other** in respect of Sector-9, Jind. The orders dated 13.11.2017 are reproduced as under:-

*"The petitioner - Welfare Society has challenged the respondents' action in having allegedly foisted the entire liability towards enhanced compensation upon its members, although, according to it, the enhancement also pertains to the land upon which a stadium has been constructed. Ld. Counsel for the petitioner further contends that a part of the land is also being used for putting up other facilities, which enure not only to the petitioner's benefit, but others also. At this stage, it is not necessary for us to consider the petitioner's submissions. It is desirable that the Authorities first consider their reply to the demand notice towards enhancement.*

*The petition is, therefore, disposed of with a direction to respondent No.2 - the Chief Administrator, HUDA, Panchkula to consider and deal with the petitioner's reply - representation dated 27.09.2017 (Annexure P-5). The petitioner shall be entitled to supplement the same by further a representation, preferably by including any authorities, they may wish to rely upon."*

The annexure P-5 i.e. representation dated 27.09.2017 contains the following main points which are as under:-

1. That as submitted above, the proceedings relating to fixation of market value, initiated at the instance of land owners of Sector-9, HUDA, Jind stood culminated way back in the year 2005. However, the impugned notices demanding enhancement has been served upon the applicant after a period of almost eleven years. As such, the demand raised by your office is barred by limitation and therefore, cannot be enforced in law against my clients/ plot holders. That in the order of enhancement, no information has been given as to on which date/ year, the land owners were paid compensation in pursuance to the judgment of Hon'ble High Court and Ld. ADJ. All these facts are very much necessary for understanding the demand raised by your office as my client/ plot holders cannot be made to pay interest for the delay committed by your office in making payments to the landowners or in the alternate for the delay in raising the demand from the plot holders, such like the applicant. In this context the observation of Division of Hon'ble High Court in case titled as Charanjeet Bajaj and others versus State of Haryana may be adverted to wherein it was observed inter-alia that plot holders is not liable to pay interest from the period of

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intervening deposit of compensation and issue of notice and delay on the part of authority in depositing the amount of compensation cannot justified demand of interest from the plot holders qua such delay whereas in the notice no reason has been mentioned for the demand of interest in the light of the above judgment of the Hon'ble High Court HUDA is not entitled to recover interest qua such delay on its own part.

2. That vide order under reply the plot holders have been asked to pay 15% interest in case the enhanced price is to be paid in equal installment. No reference of any provision under the Haryana Urban Development (Disposal of Land and Building) Regulation, 1978, has been made while demanding such an exorbitant rate of interest.
3. That a perusal of the calculation sheet shows that the total area of Sector-9 is 158.62 acre and the liability has been fastened on 84.21 acre only and no liability has been fastened on the area 30.99 acre under stadium (20.00 acre) area under Primary school/ SS School (3.50 acre) area under 132 KB sub station (3.39 acre), area under Temple-cum-Dharamshala (0.50 acre), area under Day Care Centre (1.00 acre) area under cattle Pound (0.50 acres) are under Police Post (0.50 acre), area under Tube Well/ Boosting station (1.60 acre). The said area i.e 30.99 acre under Stadium, School, 132 KB Sub Station, Temple-cum-Dharamshala, Day Care Centre, Cattle Pound, Police Post and Tube Well are not meant for resident of Sector-9 only and rather are to be used by the resident of other area and the said area has to be sold/ allotted by the HUDA to other authorities of the Govt./ Semi Govt./ and to private person and thus the said area has also to be indicating in the total saleable area and the liability of the enhancement has also been fastened on the said area i.e. 30.99 acre and the liability of enhancement cannot be fastened on the resident of plot holders.
4. That the authorities has below totally ignored the facts that the term and condition of the allotment has not been taking consideration in this context it may highlighted that the allotment letters contain term and conditions of allotment and clauses of such condition clearly provides that interest shall incur from the date of handing over of possession so as to incorporate in the allotment letter in the facte of admitted non delivery of possession to the allottees initial HUDA is certainly not entitled moreover it is relevant to mention here that in the Roochira Ceramics Vs HUDA and other reported in 2001 Vol. II PLR Pg. No. 218 the Hon'ble Supreme Court had held that if the allottees commits default in payment of installment HUDA is entitled to charge 10% and more demand is illegal.
5. That the authorities has totally ignored while issuing notice for recovery of second enhancement pertaining to the acquired land for the development of Sector-9, Jind after burdening the applicants the amount which is to be levied on EWS category to the General Category whereas State has introduced the scheme/ policy for allotment of plot/ flats earmarked for Economical Weaker Section so the

State has to pay not the allottees of General category. So the amount which has been calculated against the second enhancement against the policy issued by the State of Haryana.

**Findings**

In respect of the issue regarding interest on the enhancement after a gap of 11 years. The Hon'ble High Court has already settled the law on the issue of charging interest in CWP No. 9202 of 2014 titled as Hindustan Marbles and tiles Industries and ors Vs Haryana State Industrial Development Corporation Ltd. and ors. and held that:-

*"It is difficult to understand this grievance. The respondents could undoubtedly have demanded the amount immediately upon enhancement by the Reference Court at least in order to indemnify and secure themselves. They were, however, not bound to do so. Infact by not doing so the respondents were fair to the petitioners. The respondents had challenged the enhancement granted by the Reference Court before this Court by filing a first appeal. This appeal was infact for the benefit of the petitioners. For had the respondents succeeded, the liability of the allottees/petitioners would have been reduced. As far as the respondents are concerned, they could not have demanded the additional price as a consequence of the enhancement in compensation awarded by the Reference Court or even by this Court for by filing the appeal the respondents did not accede to the landowner's right to the same. The time or the occasion to make a demand in turn from the allottees had, therefore, not arisen for the respondents' contention was that the same is not payable. Indeed the respondents could have demanded the amount even before the conclusion of their appeal whether before this Court or even before the Supreme Court by way of indemnity/security and the allottees/petitioners would in any event have been bound to comply with the demand. However, by not having demanded the amount earlier, the respondents cannot be deprived of the interest.*

The reliance placed on behalf of the petitioners upon the judgment of a Division Bench of this Court in Charanjit Bajaj and others v. The State of Haryana and others, is not well founded. Hence, this plea is not sustainable in the light of above order of Hon'ble High Court.

After issuance of demand notice, delay interest @ 15% p.a. is charged under Regulation 10 (2) of Haryana Urban (Disposal of Land & Building) Regulation, 1978 if the amount is not deposited within 30 days of issuance of demand.

*1/2/17*

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The petitioner has further disputed that enhancement of land under stadium, primary school, 132 KB Sub Station, Temple-cum-Dharamshala, Day Care Center, Cattle pond, police post, tube well/ boosting station etc. (30.99 acres) has been put on the petitioners which is wrong. In this regard, it is clarified that every sector has certain common areas which are meant for common utilization of the residents. These services including roads, parks, community centre, police station are meant for benefits of residents. Since this area is non-saleable area, therefore, the load of enhancement of common area is distributed proportionately over the saleable area which may include residential plots, Group Housing Sites, commercial area. Therefore, contention that load of enhancement of common area has been loaded on residential plot holders is not correct. It is pertinent to discuss herein that this load is also distributed over the commercial area which is actually borne out by Haryana Urban Development Authority.

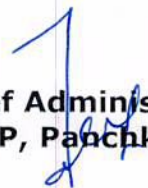
The judgment relied upon by the petitioners i.e. Roochira Ceramics Vs HUDA and other reported in 2001 Vol. II PLR Pg. No. 218 is not applicable in the present case because facts of the case in hand are totally different. As in the case in hand interest on the delayed installment above 10% specifically mentioned in allotment letter. Hence, the case Roochira is not going to help the petitioners in any way.

EWS is subsidized scheme. The Hon'ble High Court in CWP NO. 1483 of 1997 titled as Bishan Sawrup and Ors. Vs State of Haryana and ors. has held that the members of EWS category and those belonging to other categories and if so interpreted, it would mean that the members of the EWS category can be asked to pay enhanced cost in the same proportion in which they had paid the tentative price fixed at the time of allotment.

### **Conclusion:-**

I am of the considered view that the demand notices issued by the Estate Officer, HSVP, Jind are strictly in accordance with the terms and conditions of the allotment letter and policies of HSVP. Accordingly, the representation is disposed off and no relief is granted to the petitioner.

Hence the orders of Hon'ble Punjab and Haryana High Court dated 13.11.2017 stand compiled with.

  
**Chief Administrator,  
HSVP, Panchkula.**