

**(2013) 01 AHC CK 0419**

**Allahabad High Court**

**Case No:** C.M.W.P. No. 55672 of 2012

Janhit Seva Samiti (Regd.) and  
Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** Jan. 17, 2013

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (2013) 98 ALR 182 : (2013) 4 AWC 3367

**Hon'ble Judges:** Zaki Ullah Khan, J; Satya Poot Mehrotra, J

**Bench:** Division Bench

**Advocate:** Vijaya Prakash, for the Appellant; B. Dayal and M.C. Chaturvedi, for the Respondent

**Final Decision:** Disposed Of

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### **Judgement**

Satya Poot Mehrotra and Zaki Ullah Khan, JJ.

Pursuant to the Order dated 15.1.2013, the case has been put up today as unlisted case in the Additional Cause List.

Pursuant to the Order dated 20.12.2012, the Stamp Reporter has submitted Report dated 4.1.2013 that pursuant to impleadment of 59 persons as petitioners, the deficiency in Court fee has been made good.

We are, therefore, proceeding to consider the matter and pass appropriate orders.

The present writ petition has been filed by the petitioners under Article 226 of Constitution of India making the following prayers:

1. Issue a writ, order or direction in the nature of mandamus directing respondents No. 2 and 3 not to impose the additional amount and interest on the members of petitioner No. 1 (allottees of the colony under the Ganga Nagar Scheme) differently than the other allottees of the colony under the Ganga Nagar Scheme, who are

petitioners of Writ Petition No. 31631 of 2005.

2. Issues a writ, order or direction in the nature of mandamus directing the respondent Nos. 2 and 3 to realise the amount from the members of petitioner No. 1 as decided by them vide order dated 1.4.2005 in compliance of judgment dated 29.4.2005 (Annexure-3).

3. Issue a writ, order or direction in the nature of mandamus restraining the respondents from passing any adverse order against the members of petitioner No. 1.

4. Issue any other order or direction which the Hon''ble Court may deem fit and proper in the circumstances of the case.

5. To award the cost of the petition to this petitioner.

2. It appears that for the purpose of establishing a residential colony, a huge area of land was acquired. Thereafter, the plots were allotted to various persons. The petitioners are some of the allottees of the plots.

One of the conditions for the allotment of plot was that in case there was an enhancement in the amount of compensation to be awarded for acquisition of land, the allottee would be required to pay additional compensation with interest.

3. The case of the petitioners is that the quantum of additional amount of enhanced compensation and interest to be paid by the petitioners cannot be on a different basis than the basis on which the quantum payable by the other allottees of the colony in respect of the said items is to be computed.

4. We have heard Sri Vijay Prakash, learned counsel for the petitioners, the learned standing counsel appearing for the respondent No. 1 and Sri B. Dayal, learned counsel for the respondents No. 2 and 3, and perused the record.

5. It is not disputed by the learned counsel for the parties that the controversy involved in the present writ petition was the subject-matter of an earlier writ petition, namely, Civil Misc. Writ Petition No. 31631 of 2005, Ganga Nagar Welfare Association and others v. Meerut Development Authority, Meerut and another, which was disposed of by this Court by the judgment and order dated 29.4.2005.

It is again not disputed by the learned counsel for the parties that the petitioners are similarly situated as the persons involved in the aforesaid writ petition, namely Civil Misc. Writ Petition No. 31631 of 2005.

The relevant portion of the judgment dated 29.4.2005 passed by this Court in the aforesaid Civil Misc. Writ Petition No. 31631 of 2005 is reproduced below:

Shri Dayal has submitted that as there is no dispute on legal issues, as explained above, the dispute remains only of calculation. Thus it would be desirable that the allottee if is so aggrieved, may make a representation before the competent

authority and the authority shall determine the exact amount explaining the demand under different heads so that the allottee may understand his liability and make payment within a reasonable time.

Thus, in view of the above, we dispose of this writ petition with a direction that in case an individual allottee makes a proper representation before the authority concerned, the authority shall inform the individual as what was the market value assessed at the time of making award u/s 11 of the Act; what was the enhancement u/s 18 of the Act, and how much burden the allottee has to share including his share for the area left for parks, community centre and roads etc. in addition to his plot and he may be given a reasonable time to deposit the said amount. In case the said amount is not paid within the said stipulated time only then the authorities will proceed against him in accordance with law.

Till the aforesaid course stands concluded, authorities are restrained from passing any order adversely affecting any of the members of the petitioners association.

6. As the petitioners are similarly situated as the persons involved in the aforesaid writ petition, we are of the view that the interest of justice would be sub-served by disposing of the present writ petition by giving similar directions as given in the aforesaid writ petition. We accordingly dispose of the present writ petition with the following directions:

(i) The petitioners may make a representation before the respondent No. 3 (Vice-Chairman, Meerut Development Authority, Meerut) within six weeks from today alongwith certified copy of this order;

(ii) On representation being so made by the petitioners, the respondent No. 3 will decide the representation expeditiously, preferably within a period of two months of the receipt of said representation, by passing a speaking order after giving reasonable opportunity of hearing to the petitioners.