

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.4394 of 2003 (O&M)

Date of Decision: 09.07.2015

Ram Lal Kalra

... Petitioner

VS.

Commissioner and Secretary
to Govt. Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: None for the petitioner

Mr. Naveen Kaushik, Addl. AG Haryana

SURYA KANT, J. (Oral)

(1) The case is on the regular board. It has been displayed thrice since 02.07.2015 amongst the cases to be taken-up. No one appears on behalf of the petitioner even today. In these circumstance, we proceed to decide the same on merits.

(2) The petitioner has laid challenge to the orders dated 29.02.2000, 14.05.2002 & 11.10.2002 (P2, P3 & P7) passed by the Assistant Registrar-cum-Managing Officer, Rehabilitation Department, the Chief Settlement Commissioner, Haryana as well as Financial Commissioner, Haryana, respectively.

(3) In view of the nature of dispute raised before this Court it is not necessary to mention the facts elaborately. Suffice it to say that the petitioner's father was allotted land measuring

19½ Standard Acres in villages Sunari, Khorī Khurd and Khorī Kalan, Tehsil Nuh, District Gurgaon in the year 1955-56 in lieu of the land purportedly left out by him in Pakistan. Later on, the revenue record of the land in Pakistan was obtained and it was found that the petitioner's father had got allotted land for in excess to his entitlement. Instead of 19½ Standard Acres, he was entitled to allotment of 7 SA units only. Consequently, the original allotment was cancelled to the extent of the excess area vide the order dated 31.01.1959.

(4) The above-stated cancellation was sought to be re-agitated by the petitioner after the death of his father by way of a revision petition. The Chief Settlement Commissioner vide order dated 01.05.1989 remitted the case to the Assistant Settlement Officer (S), Karnal for afresh decision. The ASO (S) Karnal vide order dated 28.10.1991 rejected the petitioner's claim. The matter was thereafter again remanded to the Assistant Registrar, Rehabilitation Department to verify the claim of the petitioner and pursuant thereto the said authority passed the order dated 29.02.2000 (P2) reiterating that the allotment made in favour of the petitioner's father was rightly reduced as the land allotted to him was in excess to his entitlement.

(5) The aggrieved petitioner filed a revision petition before the Chief Settlement Commissioner, Haryana who vide order dated 14.05.2002 (P3) dismissed the revision petition with cost of

₹10000 and further directed the department “*to examine the case for lodging a criminal case against the petitioner as per the rules and instructions*”.

(6) The relentless petitioner then filed a petition under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and also sought stay against payment of cost of ₹10,000/-.

(7) It appears that when the above-stated revision petition came up for hearing on 25.09.2002, the Revisional Authority-cum-Secretary to Haryana Government, Rehabilitation Department asked the petitioner to deposit the cost amount and granted time for that purpose. The petitioner, however, did not comply with that order hence the revision petition was dismissed in default on 11.10.2002 (P7).

(8) Aggrieved by these orders, the petitioner has approached this Court.

(9) Vide order dated 24.03.2003, this Court stayed recovery of the cost amount.

(10) After going through the record and hearing learned State counsel, we are of the considered view that the Revisional Authority ought not have dismissed the revision petition “*in default in limine*” for non-depositing of the cost amount. In the interest of justice one more opportunity ought to have been

granted to the petitioner to deposit the cost amount as a pre-emptory condition for deciding the revision petition on merits.

(11) While it is not expedient to express any views on merits as we are inclined to remit the case to Revisional Authority for afresh adjudication, nevertheless we are also of the view that the petitioner has not made out a case to stay the recovery of cost amount till the decision of his revision petition.

(12) Consequently and for the reasons afore-stated, the writ petition is allowed in part; the order dated 11.10.2002 (P7) is set aside and the matter is remitted to the Revisional Authority to decide the same afresh and in accordance with law subject to the condition that the petitioner shall deposit the cost amount of ₹10000 along with interest @ 6 per annum w.e.f. from the date of passing of order of Chief Settlement Commissioner till actual deposit of cost amount within three months. No sooner, the petitioner would produce the receipt of deposit, the revisional authority shall take up and decide the revision petition on merits. The petitioner shall deposit the cost amount without prejudice to his legal rights. In case he succeeds before the revisional authority, the amount to be deposited by him shall be liable to be refunded. If the petitioner fails to deposit the above said amount within the stipulated period, the revision petition shall be taken to have been dismissed for non-prosecution.

(13) Registry is directed to send a copy of this order to the petitioner at his given address as well as to his learned counsel.

(14) Ordered accordingly.

(Surya Kant)
Judge

09.07.2015
vishal shonkar

(P.B. Bajanthri)
Judge