

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

CWP No. 5572 of 2003 (O&M)

Date of decision: 07.04.2015

Wazir Chand

....Petitioner

Versus

Commissioner & Secretary to Government, Haryana and others

.... Respondents

**CORAM: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

Present: Mr. S.N.Saini, Advocate
for the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

P.B. Bajanthri, J.

In the above writ petition, the petitioner has questioned the order dated 19.07.2002 vide Annexure P-7 passed by respondent No.1 upholding the order dated 15.11.2001 vide Annexure P-5 issued by respondent No.2 by which respondent No. 2 set aside the order dated 08.03.1996 of the Assistant Registrar-cum-Managing Director whereby additional area to the extent of 2 standard acres, 8 units was granted to the petitioner.

(2) The petitioner is a resident of District Hisar, Haryana. He stated to have been displaced person from West Pakistan where he had land holding. He had been provided land under the quasi-permanent scheme issued by the East Punjab Government vide notification dated 08.07.1949.

(3) In the year 1950 & 1952, the petitioner was allotted land

measuring 16 standard acres 4 units in lieu of the land left by him in Pakistan measuring 22 standard acres 11 units. According to the petitioner, proportionately the land was not allotted and he was entitled for additional allotment of land.

(4) For allotment of additional land, the petitioner for the first time approached the authorities like Tehsildar in the year 1996 by misleading certain facts and in connivance with the staff of the Revenue Department and got additional land allotted on 08.03.1996. The Chief Settlement Commissioner, Haryana, Chandigarh took suo motu reference under Section 24 of the Displaced Persons (C&R) Act, 1954. After due formalities of hearing the petitioner and another by name Sh. Baldev Raj cancelled the allotment of additional area to the extent of 2 standard acres and 8 units allotted by the Assistant Registrar-cum-Managing Director vide U.O. No. 2719-21/ARH. Aggrieved by the order of the Chief Settlement Commissioner, Haryana, Chandigarh, petitioner preferred a petition before the Commissioner and Secretary to Government, Haryana, Rehabilitation Department. The case number was registered as no. 33(30)2002. Respondent No.1 after considering the factual aspects relating to allotment of land to the petitioner, dismissed the revision in limine while upholding the order of respondent No.2 on 19.07.2002.

(5) The petitioner feeling aggrieved by the order of respondents No.1 and 2 presented the above writ petition.

(6) In support of the writ petition, counsel for the petitioner vehemently contended that the initially allotment of land in the year 1950 & 1952 there was a clerical mistake and the petitioner is entitled for additional

allotment of land with reference to the land held by him in West Pakistan. It was further argued that there was a mathematical mistake in allotting the land to him. It was contended that the petitioner filed necessary application before the Assistant Registrar and it was processed for grant of additional land on 06.03.1996. Accordingly, allotment of land was granted in accordance with law on 08.03.1996. Therefore, there is no infirmity in granting additional allotment of land and the order dated 08.03.1996 of Assistant Registrar-cum-Managing Director vide U.O. No.2719-21/ARH. Hence, the impugned order of respondents No.1 and 2 dated 15.11.2001 and 19.07.2002 are liable to be set aside.

(7) Per contra, counsel for the respondents vehemently contended that the writ petition is liable to be rejected outrightly on the ground of delay and laches. The petitioner opened his eyes for grant of additional land after 4 decades. On this preliminary issue, the writ petition is to be dismissed. Further it was contended that the petitioner has mislead the revenue authorities and got additional land allotment in connivance with the staff of the Revenue Department. This was taken note of by the higher authorities, namely, respondent No.2 and set aside the grant of additional allotment of land to the petitioner while exercising quasi judicial proceedings. Further rightly, the revisional authority-respondent No.1 confirmed the order of respondent No.2. He further submitted that very detailed orders have been passed by respondents No.1 and 2 while taking factual aspects relating to allotment of land in the year 1950 & 1952 to the petitioner which was in accordance with the scheme of allotment of land.

(8) Learned counsel for the respondents also submitted that in order

to cheat the Revenue Department, the petitioner claimed additional allotment of land. This is evident from the fact that as soon as additional allotment of land was ordered by the Revenue Authorities on 08.03.1996, the petitioner sold the additional allotment of land to one Sh. Prem Singh on 20.06.1996 and mutation was sanctioned on 25.07.1996. The Special Secretary-cum-Chief Settlement Commissioner stayed the alienation of the land on 14.10.1996. The vendee of the petitioner, namely, Sh. Prem Singh filed a civil suit in the Court of Civil Judge (Sr. Division), Ambala questioning the order dated 14.10.1996 i.e. staying the alienation of the land. The Civil Judge (Sr. Division), Ambala decreed the suit on 28.02.2002. Against the judgment and decree dated 28.02.2002, an appeal was filed in the Court of Additional District Judge, Ambala in which petitioner was also arrayed as respondent No.4. Learned Additional District Judge, Ambala accepted the appeal and dismissed the suit of the vendee-Sh. Prem Singh. Extract of the judgment is reproduced herein :-

“From the totality of circumstances as discussed above, it is thus clear that it was a case of connivance and conspiracy (prima facie criminal) by all concerned including the vendor, the attorney, the vendees, the authorities i.e. Assistant Registrar, Settlement Officer, the then Chief Settlement Commissioner etc. in approving note dated 06.03.1996 and Tehsildar (Sales)-cum-Managing Director, Ambala. In view of the typical factual matrix of the case where, every action of these individual and authorities is founded in fraud, cheating and hoodwinking the Government, plea of bonafide purchaser would not be available to the vendees. These circumstances call for registration of criminal case against these individuals and others to punish the guilty. The title of the vendor never came to be conferred legally and validly on him and thus he

could not pass a title better than what he had with him. There is total lack of bonafide with the vendees.”

(9) In view of the aforesaid civil proceedings, the matter has attained finality and the petitioner has accepted the judicial pronouncement. In other words, Sh. Prem Singh nor the petitioner further questioned the validity of the judgment in appeal.

(10) We have to dismiss the above writ petition on the ground of delay and laches and so also, the petitioner has not approached this Court with clean hands. The Apex Court time and again held that parties must approach court with clean hands with full facts which are in their favour or against. Since, the petitioner has not approached this court with full facts and he suppressed the civil proceedings. Moreover, the petitioner has not made out a case even on merits. In view of the factual aspects which has been analyzed by respondents No.1 and 2, in a quasi judicial proceedings and rejected the petitioner claim, we decline to interfere with the impugned orders.

(11) The writ petition is dismissed with costs of Rs.5,000/-.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

07.04.2015
pooja saini