

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 1728 of 2002

Date of Decision: 08.1.2015

Harmit Singh

... Petitioner(s)

Versus

Financial Commissioner (R), Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Rajan Gupta.

Present: Mr. Pritam Saini, Advocate
for the petitioner(s).

Mr. Yatinder Sharma, Additional Advocate
General, Punjab for respondents No.1 to 4.

Mr. Gurcharan Dass, Advocate
for respondents No.13 to 15.

Rajan Gupta, J.

This order will dispose of two writ petitions viz. Civil Writ Petition Nos. 1728 of 2002 and 20608 of 2002, which have been preferred against order dated 14.8.2001 passed by the Financial Commissioner (Revenue), Punjab. Operative part of the order reads as under:-

"4. I have carefully examined the records and have heard the learned counsel for the parties. In my opinion both these revisions are devoid of any merit and the same are liable to be dismissed. In the impugned order dated 29.4.1997 of the Chief Sales Commissioner it has been specifically mentioned that Ram Chand died on 24.8.1997 and the appeal was filed on 27.3.1995 in the name of Ram Chand and thus

the appeal by a dead person was infructuous. The present revision petitions have been filed by Harmit Singh as legal heir of Ram Chand. It is intriguingly noticed that the appeal before the Sales Commissioner, Ludhiana was filed on 15.3.1995 by Ram Chand through Harmit Singh as his General Attorney. With the death of Ram Chand way back on 4.8.1994 even before the filing of the appeal before the Sales Commissioner. Harmit Singh had no locus-standi to file the appeal as he had ceased to be the General Attorney of Ram Chand, the power of attorney having become void with the death of Ram Chand much earlier. The same mischief has been repeated in the present revision petitions in a different form by Harmit Singh representing himself to be the legal heir of Ram Chand. The learned counsel for appellant has confronted with this intriguing situation. He was called upon to satisfy this court regarding locus standi of Harmit Singh to continue these proceedings on behalf of Ram Chand. He had no answer to furnish in this regard. It is noticed that Harmit Singh has been making mockery of the proceedings in taking shifting stand regarding his locus standi to pursue the claim of Ram Chand. In all events, with the death of Ram Chand no legal representative of Ram Chand had come forward to prosecute these petitions. Since Harmit Singh had no locus standi to pursue these revisions, there is absolutely no justification to perpetuate the mischief committed by him in misleading the

courts at different stages by prolonging these proceedings any further. Therefore, the revision petitions are dismissed for want of locus standi of Harmit Singh.

5. *It is noticed that after the order dated 26.7.1996 by the Sales Commissioner, the land was allotted to Joginder Singh etc. by the Managing Officer on 3.12.94. There is nothing on the record to show that they were legally entitled to the allotment of such a large chunk of land at the relevant time on the basis of their cultivating possession. On the contrary from the record the land in dispute is found to be part of the riverbed (Buddah Nala) and such lands are not allotable. Therefore, the allotment made in favour of Joginder Singh etc. is also cancelled. The Chief Sales Commissioner-cum-Deputy Commissioner should take immediate steps to take possession of the area in public interest. He should also look into the circumstances under which the land was not only shown in possession of the respondents but was allotted to them; and fix responsibility of the officers and officials responsible for the same.”*

Petitioner in Civil Writ Petition No. 1728 of 2002 has assailed the order on the ground that he was successor-in-interest of Ram Chand, who was originally allotted the land in question under Displaced Persons (Compensation & Rehabilitation Act, 1954 (hereinafter referred to as “the Act”). After the death of Ram Chand, he had legitimate right over the land. Thus, Financial Commissioner has erred in rejecting his

claim.

Petitioners in Civil Writ Petition No. 20608 of 2002 have assailed the order on the ground that Financial Commissioner while rejecting the revision petition preferred by respondent No.5 could not have been cancelled allotment made to them. According to petitioners, land was allotted to them by the competent authority on the basis of their long possession. Same was, thus, in consonance with the policy prevailing at that time.

Learned State counsel has vehemently opposed the pleas. According to him, after the death of Ram Chand, none of his legal heirs came forward to claim the land. After lapse of some time, an application was moved by one Harmit Singh claiming to be attorney of Ram Chand. There is nothing on record to show that Harmit Singh had any relation whatsoever with deceased Ram Chand. As regards petitioners in Civil Writ Petition No. 20608, he submits that an erroneous order was passed by the lower revenue authority allotting land to them on the basis of their cultivating possession. As this fact was noticed by the Financial Commissioner, he set aside allotment in favour of such persons. Thus, the order is totally sustainable.

I have heard counsel for the parties. It appears that one Ram Chand was allotted land measuring 243 kanals in village Khasi Kalan vide order dated 14.5.1986 in lieu of land abandoned by one Wasandhi Bhai in Pakistan. The order of allotment was challenged by Joginder Singh & others (petitioners in Civil Writ Petition No. 20608 of 2002) as they claimed ownership of the land on the basis of their cultivating

possession. Their appeal was accepted by the Sales Commissioner, Ludhiana. Vide his order dated 31.12.1991, he remanded the case to Tehsildar Sales-cum-Managing Officer, Ludhiana for decision afresh. Tehsildar Sales-cum-Managing Officer, thereafter, cancelled allotment in favour of Ram Chand vide his order dated 31.10.1994 and allotted land to Joginder Singh & others vide another order dated 3.12.1994. One Harmit Singh claiming himself to be attorney of Ram Chand preferred an appeal before the Sales Commissioner, Ludhiana. The authority accepted the appeal and vide order dated 26.7.1996 restored the allotment in favour of Ram Chand. Against this order, two appeals were filed before the Chief Sales Commissioner, Ludhiana. The authority came to the conclusion that Ram Chand died on 24.8.1994, whereas appeal was preferred before the Sales Commissioner, Ludhiana on 27.3.1995 in the name of deceased Ram Chand. He, thus, set aside order dated 25.7.1996 passed by the Sales Commissioner, Ludhiana. Aggrieved, two revision petitions were preferred before the Financial Commissioner (Revenue), Punjab, one by Harmit Singh claiming himself to be attorney of Ram Chand and other by Joginder Singh & others. Financial Commissioner considered the issue and came to the conclusion that Ram Chand filed appeal through his general power of attorney on 15.3.1995 though his date of death was recorded as 14.8.1994. No such appeal on behalf of a dead person was maintainable. He also found that same mischief had been repeated before his court as well. No legal heir of Ram Chand had come forward to press the claim. It was inexplicable how Harmit Singh had any *locus standi* to pursue the matter. Before

parting with the order, Financial Commissioner also noticed that Joginder Singh & others had no right to allotment of land on the basis of their cultivating possession particularly in a river bed. The Managing Officer had committed a grave error while making this allotment vide order dated 3.12.1994. Financial Commissioner, thus, cancelled the allotment in favour of Joginder Singh & others. He directed the Chief Sales Commissioner-cum-Deputy Commissioner to take immediate steps to look into the circumstances under which land was shown in possession of Joginder Singh & others and was allotted to them. He was also directed to fix responsibility of the officials responsible for this whole mess.

I find no infirmity with the order passed by the Financial Commissioner. It is evident that two separate set of parties have been fighting over a large chunk of land situated in District Ludhiana. The person, who was allotted land as a displaced person, namely Ram Chand, died. None of his legal heirs came forward to press their claim over the land in question. Thereafter, one Harmit Singh produced a power of attorney and filed an appeal on behalf of deceased Ram Chand. It is inexplicable how same was accepted by the Sales Commissioner, Ludhiana despite knowledge of the fact that Ram Chand had already died. Some other persons, namely Joginder Singh, Nirmal Singh, Jarnail Singh & Karam Singh put forward their claim for allotment on the basis of their long cultivating possession. This was accepted by Tehsildar Sales-cum-Managing Officer, Ludhiana. Apparently, the officer had no authority whatsoever to accept such a claim and allot the land in

question to Joginder Singh & others, which is part of a river bed.

Under the circumstances, I find no substance in pleas of the petitioners in either writ petition. Same are hereby dismissed. The Deputy Commissioner, Ludhiana is directed to comply with the directions given by Financial Commissioner (Revenue), Punjab in paragraph No.5 of the impugned order and submit his report within one month from today. In view of the fact matter has been hanging fire for considerable period and same culminates on passing of this order, it is directed that no government authority or court below shall entertain any further claim regarding the land in question without prior permission of this court.

(Rajan Gupta)
Judge

January 08, 2015

“DK”

Refer to Reporter: Yes/No