

In the High Court of Punjab and Haryana at Chandigarh.

**CWP No. 8813 of 2005
Decided on 09.9.2015**

Tek Chand (now deceased) represented by his LRs and another
--Petitioners

Vs.

State of Haryana and others
--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Rajesh Sethi, Advocate, for the petitioners

Mr.Rajesh K.Sheoran, Addl.A.G,Haryana

Rakesh Kumar Jain,J: (Oral)

The petitioners are the predecessor-in-interest of one Tulsi Dass, who migrated to India at the time of partition of the country and was acknowledged as a displaced person. His claim for allotment of land was verified to the extent of 10 Standard Acre 10/1/4 Units, after applying graded cut, in lieu of the land abandoned by him in Pakistan. In order to satisfy his claim, respondent No.3 made following allotments i.e. 2-8 Standard Acres in village Panjail, Tehsil and District Ambala on 8.8.1994; 2-2/1/2/ Standard Acres in village Niharsi ,Tehsil and District Ambala and 1-12 Standard Acres in other four villages of District Ambala. According to the petitioners, the total allotments made comes to 8-1/3/4 Standard

Acres as the land allotted in village Sirasgarh was shamlat, so it was cancelled but no alternative allotment was made.

Insofar as the land in village Panjail is concerned, vacant possession was not delivered by the department, therefore the claim of the petitioners to the extent of 2-8/1//2 Standard Acres still remains to be satisfied.

It is further alleged by the petitioners that they received a letter dated 04.12.2003 from respondent No.3 intimating that their allotment case has been sent to the Headquarters in connection with C.W.P.No. 15564 of 1994 (Gurdev Singh Vs. State) and besides that stay has been imposed on the allotment cases. On an enquiry made by the petitioners, it was found that CWP No.15564 of 1994 has already been withdrawn in the year 1996 and on 4.12..2003, there was no writ petition pending.

While the matter of the petitioners was pending, Displaced Persons (Compensation and Rehabilitation) Act, 1954 stood repealed by Displaced Persons Claims & other Laws Repeal Act, 2005 which came into force on 06.9.2005 but it also repealed the Displaced Persons (Claims) Act, 1950, the Administration of Evacuee Property Act,1950; the Evacuee Interest (Separation) Act, 1951, the Displaced Persons (Claims) Supplementary Act, 1954 and Displaced Persons (Compensation and Rehabilitation) Act,1954.

It is submitted that since there was no saving clause provided in the Displaced Persons Claims and Other Laws Repeal Act, 2005 (hereinafter referred to as 2005 Act), CWP No.9517 of 2008 titled R.KSuneja and another Vs. State of Haryana and others was filed. In that case, the Advocate General, Haryana, placed before the Court a

communication dated 22.9.2008 received by the Chief Secretary, Punjab, from the Ministry of Home Affairs, Government of India. In the said communication, it was provided that 'Unsatisfied verified claims filed under the Displaced Persons (Claims) Act, 1950 in which the right has accrued or has been acquired and which were pending as on 06.9.2005, the date on which the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts, were repealed, verified claims in which full compensation has not been given so far, appeal and revisions/ review petitions filed against order passed by the authorities prescribed under the repealed Acts were not yet to be disposed off, were saved.

The Division Bench in the case of **R.K Suneja (Supra)** observed that the Learned Advocate General, Haryana, acknowledges, that all matter falling strictly within the purview of the Haryana Evacuee Properties (Management and Disposal) Act, 2008, as well as the instructions dated 22.9.2008, limited to the four categories of cases depicted therein, would still survive in spite of the repealed Acts.

Accordingly, direction was issued to respondent Nos. 1 and 2 to ensure transmission of the relevant record to the concerned authority within one month from the date of passing of that order and the parties were directed to appear before the authority where the issue under consideration was pending.

Learned counsel for the petitioners has submitted that the case of the petitioners falls within four corners of the category provided in the instructions dated 22.9.2008 as their claim has not been settled so far and is still pending which is evident from the letter dated 04.12.2003 as well as the fact that suo motu reference has been made by the government which is

still pending before the Chief Settlement Commissioner/competent authority for 01.10.2015 challenging the entire allotment proceedings carried out in favour of Tulsi Dass, the predecessor-in-interest of the petitioners.

It is further submitted by learned counsel for the petitioners that the order passed by this Court in the case of **R.K.Suneja (Supra)** has been followed repeatedly by this Court in other cases like CWP No.21605 of 2008 titled “**Riyasat Ali Vs. The State of Haryana and others**” decided on 23.12.2008 and CWP No. 3036 of 2012 titled “**Smt. Phool Sharma and others Vs. Secretary to Government Haryana and others**” decided on 15.5.2013.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the case of the petitioners is fully covered by the decision of this Court in the case of **R.K.Suneja (Supra)** as the issue regarding allotment of land to the predecessor-in-interest of the petitioners is still pending in as much as suo motu reference has been made by the Government to the Chief Settlement Commissioner/competent authority, which is fixed for 01.10.2015.

In view thereof, the present petition is disposed of with a direction to the respondents to consider the case of the petitioners as alive and decide the same in accordance with law. as expeditiously as possible.

09.9.2015
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(Rakesh Kumar Jain)
Judge