

CWP No.20037 of 2009

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

CWP No.20037 of 2009
Date of decision: 15.01.2015

Mangla

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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: - Mr. Sumeet Mahajan, Sr. Advocate, with Mr. Anurag Jain & Mr. Amit Kohar, Advocates, for the petitioner.
Mr. Sandeep S. Mann, Sr. DAG, Haryana.

PARAMJEET SINGH, J. (ORAL)

CM No.428 of 2015

Instant application under Order 22 Rule 3 read with Section 151 of the Code of Civil Procedure has been filed for bringing on record the legal heirs of petitioner – Mangla, who is stated to have expired during the pendency of this petition.

For the reasons stated in the application, CM is allowed subject to all just exceptions. Persons mentioned in para No.3 of the application are impleaded as legal representatives of deceased-petitioner – Mangla for limited purpose of pursuing the present petition.

Registry to make necessary correction in the memo of parties.

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Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus directing the respondents to take action as per law to put the petitioner in possession of five standard acres of land allotted to him vide order dated 27.01.1964 (Annexure P-3) passed by Collector, Hansi.

Brief facts of the case are that Dharam Singh filed an application under Section 14-A of the Punjab Security of Land Tenures Act, 1953 before the Assistant Collector, Ist Grade, Hisar for ejectment of the petitioner from the land measuring 68 kanals situated within revenue estate of village Badesara, Tehsil Hansi, District Hisar. The application was decided by the Assistant Collector, Ist Grade, Hisar vide order dated 20.10.1959 (Annexure P-1) ordering ejectment of the petitioner from the entire land except 5 standard acres of land of the choice of the petitioner. Petitioner was also held entitled to payment of compensation of ₹ 150/-. Thereafter petitioner moved an application for restoration of the land as it had become part of the surplus area. In pursuance of the application of the petitioner, he was allotted land vide order dated 27.01.1964 (Annexure P-3) issued by the competent authority. However, possession of the same was not delivered alleging that petitioner had refused to take possession of the same and prayed for alternative land.

It is stated by learned counsel for the State that in pursuance of other proceedings, this land has already been allotted to other persons

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and the same cannot be allotted to the petitioner.

In pursuance of order passed by this Court on 28.02.2012, in affidavit dated 11.04.2012 filed by Deputy Commissioner-cum-Collector, Hisar, following statement has been made: -

“That as far as another specific observation of the Hon'ble Court regarding vacant surplus land it is submitted that there is vacant surplus land available in Hansi. In reference to the land mentioned in annexure P-8 of the petition the ownership is still lying with the Government of Haryana, Surplus Deptt. (under mutation no.6473, 6474, 6475 dated 02.12.2010).”

This Court vide order dated 20.11.2012 had observed as under:

“In the additional affidavit filed, it is now disclosed by the deponent/Deputy Commissioner that some vacant surplus land is available in Hansi, which is still lying with the Government. Let the Government consider to adjust the petitioner on this land if otherwise legally permissible.”

Admittedly, petitioner was a sitting tenant with the big landlord Dharam Singh and 5 standard acres of land was allowed to be retained by the petitioner but as the petitioner asked for alternative land as per his statement (Annexure R-1) before Naib Tehsildar (Surplus), Hansi, the said land has vested in the State Government and has been allotted to other persons.

Be that as it may, fact remains that petitioner was allotted land in accordance with his entitlement. A sitting tenant is entitled to allotment of land. State is under statutory obligation to allot land to the petitioner. Since other land is available, petitioner shall be adjusted and

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equivalent land, in view of land which was allotted to him earlier vide Annexure P-3, shall be allotted to him in any other village within the revenue limits of the same District i.e. Hisar wherever it is available and possession shall be handed over to him. The needful shall be done within three months from the date of receipt of certified copy of this order. Before allotting the land to any other persons, firstly the claim of the petitioner shall be satisfied.

Disposed of.

(Paramjeet Singh)
Judge

January 15, 2015
R.S.