

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 14224 of 2012

Date of Decision: 05.02.2015

Naib Kaur

....Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Mr. Naresh Kaushal, Advocate for the petitioner.

Mr. Manoj Bajaj, Addl. A.G. Punjab.

Mr. Harit Sharma, Advocate for respondents No. 2 to 4.

HEMANT GUPTA, J.(ORAL)

Petitioner, daughter of Late Shri Arjan Singh, has invoked the writ jurisdiction of this Court for quashing of order dated 23.05.2012(Annexure P-10), whereby, her claim for allotment of the plot measuring 4 marlas was declined under the 'oustee category' recording the following reasons:-

“In reference to your letter and subject cited above, you are informed that land of your father from joint khata was acquired from 1974 to 1984 and on that old policy dated 26.9.1994 is applicable, according to which joint owner can apply for only for one plot. You could not produce the affidavits of joint owners with regard to leaving of their rights, therefore, the claim with regard to application of Shri Arjan Singh against R. No. 9743 is rejected and the earnest money amount to Rs. 4250/- deposited by Shri Arjan Singh be refunded separately.”

Father of the petitioner, namely, late Shri Arjan Singh, s/o Kaka Singh and Karora Singh s/o Kaka Singh, were the joint owners of land situated in village Mataur, Tehsil Kharar, District Ropar. The land in joint Khata/Khewat belonging to the father of the petitioner, namely, late Shri Arjan Singh and Karora Singh sons of Kaka Singh acquired vide different awards, is mentioned below:-

<u><i>Award No(s).</i></u>	<u><i>Total land acquired</i></u>	<u><i>Share of Arjan Singh</i></u>	<u><i>Area of the land pertaining to Arjan Singh's share</i></u>
162, dated 24.12.1970	6K-1M	1/3 rd	2 Kanals
238, dated 17.03.1972	7K-15M	1/3 rd	2 Kanals 11 Marlas
296, dated 15.01.1974	4K-19M	1/3 rd	1 Kanal 13 Marlas
421, dated 12.07.1984	11K-16M	1/3 rd	3 Kanals 18 Marlas
	Total land acquired in joint holdings 30 Kanals 11 Marlas		Total land comes to the share of Arjan Singh 10 Kanals 13 Marlas

The share of Arjan Singh and Karora Singh in the said land was 1/3rd each. Said Arjan Singh, predecessor-in-interest of the petitioner as well as Karora Singh applied for allotment of residential plots as a part of rehabilitation process whereas the claim of the petitioner for allotment of plot stands declined.

In response to the notices of the present writ petition, a detailed written statement has been filed, inter alia, pointing out that Karora Singh filed a Civil Suit claiming ownership of 1/3rd share of deceased Arjan Singh on the basis of Will dated 16.09.1990. The said Civil suit was settled by way of compromise dated 02.03.1993, whereby, the petitioner received a sum of Rs.1,17,000/- from the plaintiff and the said suit of the

plaintiff (Karora Singh) was decreed as per the terms of the compromise. The petitioner has given up her claim in the share of deceased Arjan Singh in any of the properties left by him.

The relevant clause of the compromise reads as under:-

“1. A dispute has arisen between the parties regarding the inheritance of Sh. Arjan Singh. The litigation regarding said inheritance is pending between parties under the title of above said case. Now the parties have compromised the dispute regarding inheritance in the presence of signatories to this compromise.

2. Now the defendant Naib Kaur will get Rs. 1,17,000/- in lieu of the property in dispute from the plaintiff Karora Singh. She will also claim the money from State Bank of India, Mataur, bearing Account No. 165. She will also not claim the share of deceased Arjan Singh from any of his properties left by him in lieu of the above said amount. The defendant Naib Kaur also admits the Will executed by deceased Arjan Singh as correct.

3. Now the defendant will not claim any moveable and immovable property of the deceased Arjan Singh.

4. This compromise has been effected without any coercion and this compromise is the outcome of the free will of the parties. The parties have signed/thumb marked the compromise with their full of senses in the presence of witnesses.”

Karora Singh invoked the jurisdiction of Ld. District Consumer Disputes Redressal Forum, Ropar, by filing a complaint to seek allotment of plot but the same was dismissed vide order dated 30.08.1999. The State Consumer Disputes

Redressed Commission, Chandigarh, had also dismissed the appeal vide order dated 22.1.2002. It was held that he should take recourse and approach the probate Court on the basis of Will for establishment of his claim that he is entitled to the estate of Arjan Singh. Karora Singh also filed a writ petition bearing CWP No. 15538 of 2008 to claim allotment of a plot. The said writ petition was withdrawn on 17.11.2009 with liberty to settle the claim of the succession of Arjan Singh from the competent court.

Learned counsel for the petitioner vehemently argued that the claim of the petitioner has been rejected only for the reason that deceased Arjan Singh was the joint khata holder and according to policy of the State Government, joint owners can apply for only one plot. It is contended that such reasoning is contrary to the Full Bench judgment of this Court in the case of **Jarnail Singh & others Vs. State of Punjab & others, 2010 (4) Law Herald (P&H) (FB) 2977**, decided on 01.10.2010. Therefore, the claim of the petitioner for allotment of a plot, as a legal heir of Arjan Singh, is required to be examined as a landowner, whose land was acquired vide separate notifications in respect of which awards have been rendered from the year 1970 till 1984.

We have heard learned counsel for the parties and find no merit in the present writ petition. It is no doubt correct that the claim of the petitioner for allotment of plot has been rejected on the ground that father was a joint owner and joint owners can apply for only one plot, but undisputedly, the fact that in a suit for title in respect of estate of Arjan Singh, the

petitioner has entered into a compromise giving up her rights in the estate of Arjan Singh in favour of her uncle, namely, Karora Singh. Thus, Karora Singh alone can claim a residential plot, as a legal heir of Arjan Singh and not the petitioner. The petitioner has given up the share of Arjan Singh from any of his properties left by him and that she will also not claiming any moveable and immovable property of the deceased Arjan Singh. The right to apply for plot is a right arising out of the estate of Arjan Singh. Since, the petitioner has given up her right against any moveable and immovable property of the deceased Arjan Singh, she cannot claim any right from the respondents, as a legal heir of Arjan Singh as well.

Consequently, we do not find any merit in the present writ petition and the same is dismissed.

(HEMANT GUPTA)
JUDGE

(HARI PAL VERMA)
JUDGE

February 05, 2015
Anjal