

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CWP No.14701 of 2015**

**Date of Decision:-23.07.2015**

**Smt. Usha & Ors.**

.....Petitioners.

Versus

**The State of Haryana & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH**

Present:- Mr. Ashok Verma, Advocate for the Petitioners.

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**JASWANT SINGH, J.(ORAL)**

The petitioners are the Lrs of one Jaisa Ram, who was stated to be in unauthorised possession of total 64 Kanal of land fully described in the impugned orders dated 30.03.2011/26.05.2011 (**P-11 to P-13**). After his death, the petitioners claimed allotment/purchase of land in their unauthorised possession by filing application dated 30.03.2011 (**P-10**) under Rule 8 of The Haryana Evacuee Properties(Management and Disposal) Rules 2011 framed under The Haryana Evacuee Properties (Management and Disposal) Act, 2008. The said application of the three Lrs has been dismissed by the Tehsildar(Sales) Sirsa vide three separate orders **P-11 to P-13** in respect of the individual claim of three Lrs. The appeal filed by the petitioners has also been dismissed vide common order dated 23.05.2011 (**P-14**). Hence the present writ petition after a delay of more than 3 years impugning Annexures **P-11 to P-13** and **P-14**.

After hearing learned Counsel for the petitioner at length, this Court is not persuaded to accept the contention on behalf of the petitioners. It is apparent from the impugned order passed by the Tehsildar (Sales) Sirsa, that Jaisa Ram and his successors in interest i.e. the petitioners are in unauthorised possession of the share of the Muslims, who left for Pakistan at the time of partition, in the *Shamlat* land. It is settled principle of law, as mandated in the judgment of the Hon'ble Supreme Court dated 9.7.1985 that the share of the Muslims in the *Shamlat* land who left for Pakistan at the time of partition would not constitute evacuee property but would vest in the Gram Panchayat. Therefore, such land would not vest in the custodian department and thus, available for allotment to persons in unauthorised possession. Hence the said Jaisa Ram or his successor in interest i.e. the present petitioners cannot legally claim consideration for allotment of land in their unauthorised possession being covered under the Allotment Policy since it vests in the Gram Panchayat. The mere wrong entries in the *jamabandies* that the same is a evacuee land would not change the true nature of the land in question.

At the time of arguments, nothing has been shown to the contrary as noticed by the Tehsildar (Sales) relating to the ratio of the decision of the Hon'ble Supreme Court. Apart from the same, writ petition also suffers from vice of the delay and laches since the same has been filed after three years of the passing of the impugned orders.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

( JASWANT SINGH )  
JUDGE

July 23, 2015  
Vinay