

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

CWP No.21110 of 2014

Date of Decision:-04.03.2015

Santokh Singh & Ors.

.....Petitioners.

Versus

The Financial Commissioner Revenue, Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Dinesh Ghai, Advocate for the Petitioners.

JASWANT SINGH, J. (ORAL)

Challenge in the present writ petition is to the order dated 16.04.2013 (P-4) passed by the respondent no.2 Claims Commissioner, Revenue and Rehabilitation Department, Chandigarh as well as the order dated 25.02.2014 (P-6) passed by respondent no.1-Financial Commissioner Revenue, Punjab whereby claim of the petitioners for allotment of deficient land as per share, in view of the land abandoned in Pakistan by the predecessors of the petitioners has been dismissed.

In brief the facts that emanate from the writ petition are that about 320 acres of land was abandoned by the predecessors in interest of the petitioners in three villages at the time of partition in Pakistan in the year 1947. After migration from Pakistan to India, the predecessors in interest of the petitioners(whose names do not emanate either from the petition or from the orders) were allotted land measuring 89 acres and 10-3/4 units at village

Jaikner, Post Office Kartarpur, Tehsil Patran, District Patiala. Although as per the case set out by the petitioners, the predecessors were entitled for 240 standard acres after applying the mandatory statutory cut. Therefore, on 27.02.2012, the petitioners moved an application for allotment of deficient land as per their share which has been declined by the Authorities below vide the impugned orders.

Learned Counsel for the petitioners has argued that the Authorities below have wrongly dismissed the claim of the petitioners on false and flimsy grounds because admittedly, only 89 standard acres 10-3/4 units were allotted to the predecessors in interest, instead of their entitlement of 240 standard acres. It was further argued that the Authorities below have wrongly applied Rule 67-A in the present case which is not applicable to the facts of the case.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

In order to appreciate the controversy involved in the present case it is apposite to reproduce Rule 67-A of The Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (hereinafter referred as the Rules 1955), which states as under:

“67-A. Compensation to Displaced persons from West Punjab etc. in respect of agricultural land-Notwithstanding anything contained in this Chapter a displaced person from West Punjab or displaced person who was originally domiciled in the undivided Punjab but who before the partition of India had settled in North West Frontier Province, Baluchistan,

Bahawalpur or Sind, whose verified claim in respect of agricultural lands has not been satisfied or has been satisfied only partially by the allotment of evacuee land under the relevant notification specified in Section 10 of the Act shall not be paid compensation in any form other than the transfer of acquired evacuee agricultural land and rural houses and sites in the State of Punjab or Patiala and East Punjab States Union in accordance with the scale specified in the quasi-permanent allotment scheme operating in those States.

Providing that the displaced person applies for payment of compensation such form not later than the 31st day of December, 1963;

Provided further that if any person has been allotted land in a State other than Punjab and his land claim has not been satisfied fully, he may for the remaining claim either be allotted land due to him in that State or issued a statement of Account which he may utilise for purchase of property forming part of the Compensation pool or for adjustment of public dues.

Scope and Applicability.-Rule 67-A applies only to cases where the allottees were definitely unsatisfied claimants and had not made any application for allotment of land. It is not applicable to those cases where an application existed on record and that application had not been rejected.”

Thus, it is evident from the bare reading of Rule 67-A that any claim petition by an unsatisfied claimant for making up the deficiency of land

could only be filed on or before 31.12.1963. In the present case, admittedly the petition for allotment has been filed in the year 2012 i.e. after a lapse of nearly 49 years. Admittedly, none of the predecessors in interest of the petitioners had moved any application for allotment of any deficient land as per their verified claim during their lifetime. Moreover, it is not made out as to who are the predecessor in interest on behalf of which the petitioners are claiming their right for allotment. Thus, the authorities below were right in concluding that the claim petition itself is vague. Even otherwise Section 4 of the The Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short the Act 1954) read with Rules 1955 provide for a complete mechanism for providing compensation to the Displaced Persons in accordance with their verified claims prepared under the Displaced Persons (Claim) Act 1950, by allotting available land or payment in cash towards total satisfaction of the verified claims. It is only the displaced persons from certain districts of erstwhile West Punjab, now in Pakistan were entitled to satisfaction of their verified claims by allotment of lands only, and that too the unsatisfied claimants under Rule 67-A of 1955 Rules were to put forth their unsatisfied claims by the specified date of 31.12.1963. Nothing of the sort having been done, presumption is that the verified claims of the allottee/displaced persons stood fully satisfied.

Even otherwise, The Displaced Persons (Compensation and Rehabilitation) Act, 1954 stands repealed in the year 2005 and the effect of repealing the 1954 Act is that only those matters can be adjudicated where any proceedings under the 1954 Act is pending. It is not in dispute that no such proceedings was pending at the time of repealing of the said Act, 1954.

Moreover, the Courts have taken a consistent view that the petitioner, who

is claiming allotment of any unsatisfied verified claim must move within the time period specified under the Act, 1954 as well as Rules 1955 and any claim which is raised after the dates specified therein cannot be entertained.

In view of the above discussion, this Court finds that the present writ petition is not only devoid of any merit but amounts to abuse of the process of the Court, therefore, is hereby dismissed with costs of Rs.50,000/- to be paid jointly and severally by the petitioners within 3 months from the date of passing of the present order. The said costs are to be deposited with the District Legal Services Authority, Patiala within the stipulated time failing which the Member Secretary shall recover the same as arrears of land revenue.

(JASWANT SINGH)
JUDGE

March 04, 2015
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