

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

CWP-24716-2013

Date of decision: 24.09.2015

Sarajdin & others

..... Petitioners

Vs

Financial Commissioner (Revenue), Punjab & others

.....Respondents

Coram : Hon'ble Mr. Justice Rakesh Kumar Jain

Present : Mr. Harsh Bunger, Advocate
for the petitioners.

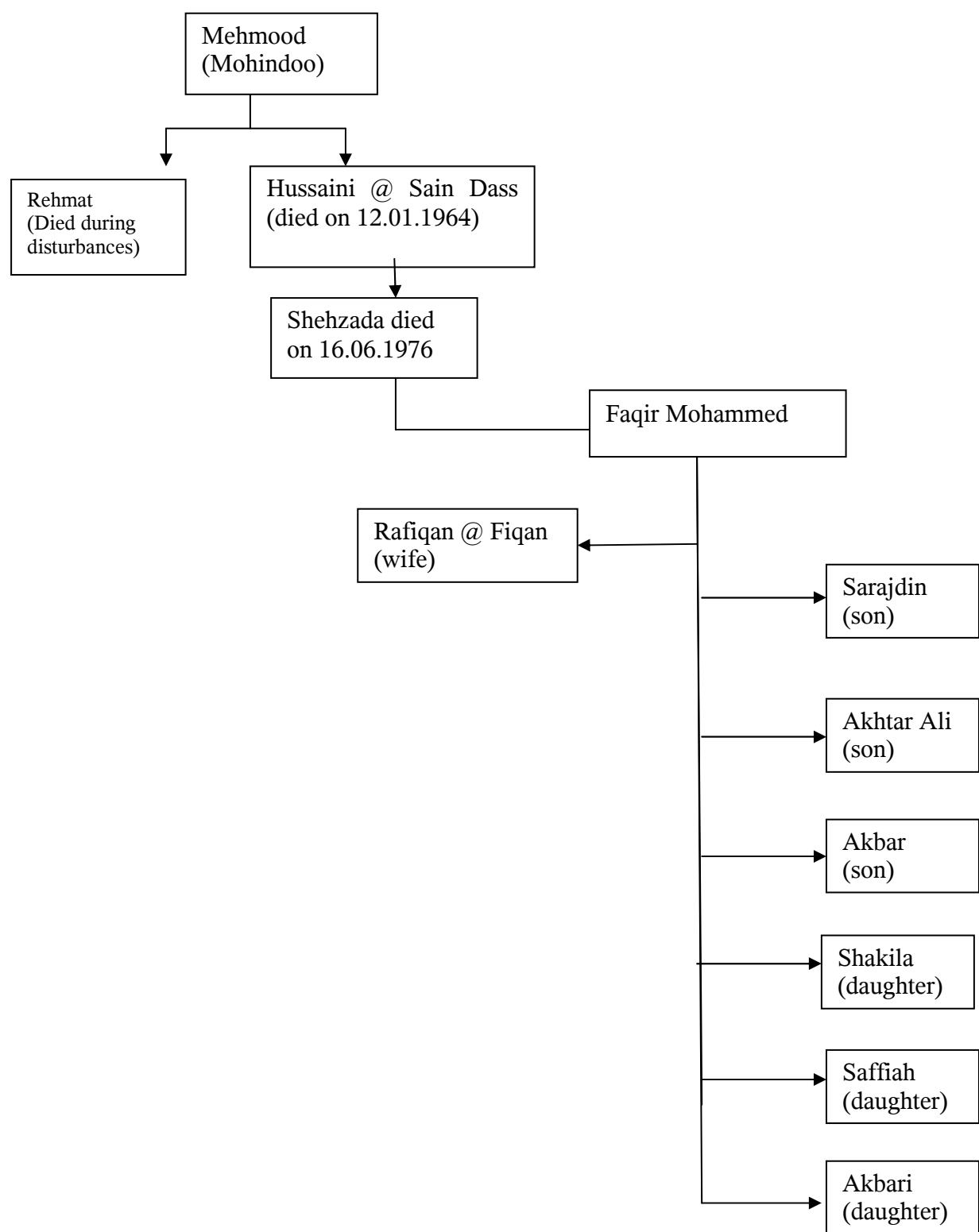
Mr. V. Ramswaroop, Addl. A.G., Punjab.

1. Whether Reporters of 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?

Rakesh Kumar Jain, J. (oral)

This petition is filed by the legal heirs of Faqir Mohammed for seeking directions to the respondents to implement the order dated 06.04.2004 passed by the Financial Commissioner (Revenue), Punjab for the purpose of allotment of land to Faqir Mohd. to the extent of 28 Bighas-12 Biswas.

In para 3 of the petition, the petitioners have given the following pedigree table :-



It is alleged that the predecessor-in-interest of the petitioners, namely, Rehmat & Hussaini sons of Mohindoo were recorded as co-sharers to the extent of 2/3rd share in the land measuring 42 Bighas 8 Biswas i.e. land measuring 28 Bighas -12 Biswas situated in village Kehru, Tehsil Dhuri, District Sangrur as

per jamabandi for the year 1950-51. The said land was comprised in Khewat No. 242, Khasra No. 2712/1840, 2715/1841, 1843, 1729, 1781, 1832, 2710/1834, 519, 633, 642, 1516, 2723/1847, 2446, 227, 293, 291, 300 and a residential house in village Kehru, Tehsil Dhuri, District Sangrur as per jamabandi for the year 1950-51.

During disturbances in the year 1947 at the time of partition of the Country, Rehmat & Hussaini sons of Mohindoo did not migrate to Pakistan rather remained in India. Rehmnat died during communal disturbances in the year 1947 whereas Hussaini @ Sain Dass and Shehzada died in India on 12.01.1964 and 16.06.1976, respectively. According to the petitioners, Shehzada had only one living son namely, Faqir Mohd. Said Faqir Mohd. had three sons and three daughters, who are petitioners in this case. Shehzada father of Faquir Mohd approached the Rehabilitation Department, Punjab for declaring his property as 'Non-Evacuee Property' and the Department of Rehabilitation, Jalandhar informed the Govt. of India, Ministry of Labour & Rehabilitation vide its letter dated 19.4.1978 that Rehmat s/o Mehmedu @ Mohindoo was killed in India during the communal riots of 1947, whereas the other co-sharer Hussain (Sain Das) S/o Mohmmudu (Mohd. Baz) also died while living in India on 12.1.1964 as established from death certificates issued by the Municipal Committee Bhawani Garh Tehsil & District

Sangrur. Shehzada s/o Hussaini who had been representing his case for declaring their agricultural land situated in village Kehru, Tehsil Dhuri, District Sangrur as 'Non-Evacuee Property' also died on 16.6.1976 as per the death certificate issued by the Municipal Committee Bhawanigarh. The Punjab Government recommended that since Rehmat and Hussaini sons of Mohindoo did not migrate to Pakistan during partition, are entitled to restoration of their property in proportion to their shares.

Predecessor-in-interest of the petitioners, namely, Faqir Mohd., also received a letter from the Department of Rehabilitation, Government of India that the matter in issue can be dealt with by the State Government itself. The State Government did not allow the application of the petitioners, therefore, the predecessor-in-interest of the petitioners - Faqir Mohd. filed a petition under Section 27 of the Administration of Evacuee Property Act, 1950 in which, vide order dated 26.3.1984 the land to the extent of 28 Bighas-12 Biswas, being 2/3rd share out of land measuring 42 Bighas 8 Biswas, situated in village Kehru, Tehsil Dhuri, District Sangrur was declared as 'Non Evacuee'. He further filed a revision petition under Section 54 of the Administration of Evacuee Property Act, 1950 before the Financial Commissioner (Revenue), Punjab, though, vide order dated 6.4.2004 allowed the revision petition but it was observed that the land of the petitioners, who had not migrated to

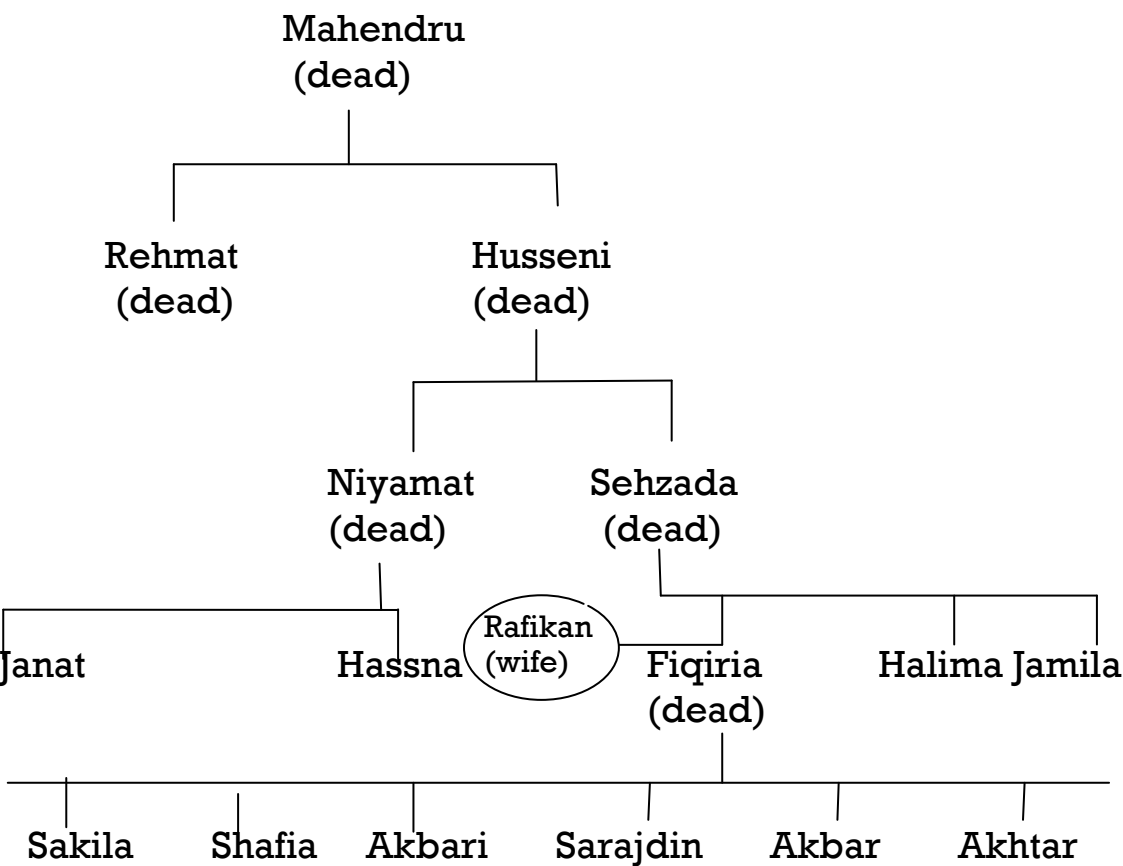
Pakistan, under mistaken belief was declared as evacuee property and has already been allotted to the displaced persons and they have become owners of that land, therefore, it would not be proper to upset the allotment at this stage. However, it was observed that State was duty bound to give equivalent land out of the compensation pool to compensate them for wrongful loss suffered by them. The petition, thus, was allowed and the order dated 26.3.1984 was upheld. The Custodian General Punjab, was also directed to provide alternate land to the petitioners without disturbing the present owners of the land which has been declared non-evacuee, preferably in district Sangrur at the earliest. The order dated 6.4.2004 passed by the Financial Commissioner, Revenue, has not been challenged, thus, attained finality. After the petitioners were not declared to be non-evacuee and held entitled to allotment of equivalent land which had been allotted to the displaced persons under the mistaken belief that the same is the evacuee property, the Chief Settlement Commissioner, Revenue and Rehabilitation Department had a correspondence with the Deputy Commissioner, Sangrur for the purpose of allotment of land from the Compensation Pool but neither the request of the petitioner was adhered to nor of the Rehabilitation Department was acceded, hence, the petitioners had filed the present petition.

After notice of motion, respondents have appeared and reply has been filed by all the respondents in which, after accepting the fact that the petitioners' properties are non-evacuee and their land has been wrongly allotted to the displaced persons who came from Pakistan. It is further averred that in District Sangur, the petitioners had only 2 Bighas 3 Biswa and 3 Biswasi share of land out of the 28 Bigha 22 Biswa owned by their ancestors.

On 8.9.2015, this Court had directed the State to produce the report of the Deputy Commissioner, sangur on the basis of which it has been averred in the reply that the petitioners seem to have only 2 Bigha 2 Biswa and 3 Biswai share of land out of the 28 Bigha 22 Biawa owned by their ancestors.

Apropos, the respondents have filed an affidavit of Sh. Gagandeep Singh, District Revenue Officer, Sangrur dated 11.09.2015 in which it is admitted that Faqir Mohammad, husband and father of the petitioners was having 9 Bigha, 15 Biswa, 10 Biswasi of land and the mistake committed earlier was regretted. Gagandeep Singh, District Revenue Officer, Sangur-respondent No.4, is present in Court today. He has handed over another pedigree table of family of Mohindu in which he has shown Husseni had two sons, namely, Niyamat and Shehzada, which is against the pedigree table produced by the petitioners in para 3 of the petition in which Shehzada is shown to be the

only son of Hussaini @ Sain Dass. Niyamat is shown to have two sons Jannat and Sehzada. The pedigree table produced by respondent No.4 in Court is also reproduced as under :-



Faced with the aforesaid facts and circumstances of the case, learned counsel for the petitioners has submitted that in so far as the predecessor-in-interest of the petitioners, namely, Faqir Mohd, is concerned they have been held entitled to 9 Bigha 15 Biswa and 10 Biswasi of land which may be allotted to them without any loss of time as the family of the petitioners have been deprived of their rightful claim since the partition of the country.

Counsel for the State, on instructions from respondent No.4, has submitted that the family of Faqir Mohd. /petitioners

shall be allotted 9 Bigha 15 Biswa and 10 Biswasi land as per its value/nature recorded in the jamabandi for the year 1950-51 anywhere in the State of Punjab, preferably in and around Districti Sangrur. Learned State counsel, on instructions from respondent No.4, has further submitted that the needful shall be done within three months. Learned counsel for the petitioners is fully satisfied with the stand taken by the respondents. In view thereof, the present petition is hereby disposed of.

(Rakesh Kumar Jain)
Judge

24.09.2015

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