

CWP-27713-2013

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

CWP-27713-2013

Date of Decision: 10.08.2015

Jaswant Singh and others

... Petitioner(s)

Versus

Financial Commissioner, Revenue, Punjab and others

... Respondent(s)

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. G.S.Nagra, Advocate,
for the petitioners.

Mr. Suresh Singla, Addl. A. G. Punjab.

Paramjeet Singh, J.(Oral)

Instant petition has been filed under Articles 226/227 of the Constitution of India for quashing the impugned orders dated 28.08.2012 (Annexure P-13) passed by respondent No.1-Financial Commissioner (Revenue), Punjab, dated 09.07.2010 (Annexure P-11) passed by respondent No.2-Claim Commissioner and order dated 07.07.2004 (Annexure P-5) passed by respondent No.1-Financial Commissioner, Revenue, Punjab.

Brief facts for disposal of the present petition are to the effect that predecessors-in-interest of the petitioners namely Karnail Singh,

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Bhagwan Singh and Jagta were displaced persons, who had migrated from Pakistan at the time of partition of the country. The trio were allotted land measuring 7 SA-14½ Units each in village Andlu, Tehsil & District Ludhiana. Jagta son of Kala Singh sold 1 SA-1 Unit of land during his life time and he was left with 6 SA-13¼ Units. Jagta Singh died issueless and his property was inherited by Bhagwan Singh son of Kaka Singh and Karnail Singh son of Santa Singh in equal shares. The Managing Officer cancelled allotment of 6SA-13 Units, situated at village Andlu, being excess allotment. The predecessors-in-interest of the petitioners made representation to the competent authorities and the land was restored and alternative land i.e. 2 SA at village Badhela and 4 SA-13 Units at village Talwandi Rai, District Ludhiana was allotted. Since Bhagwan Singh and Karnail Singh got the above mentioned allotment as successors of Jagta, the Managing Officer again wrongly cancelled 6SA-2¼ Unit from the allotment of Bhagwan Singh and Karnail Singh in village Badhela and village Talwandi Rai, District Ludhiana considering double allotment in their favour. Later on, the authorities concerned restored land measuring 4SA-13 Units vide order dated 25.03.1971 finding that it was not double allotment and 1 SA-15 Units were cancelled being excess from the name of Bhagwan Singh and Karnail Singh. The predecessors-in-interest of the petitioners moved application to the authorities but the department made a *suo motu* reference to the Chief Settlement Commissioner who rejected the

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reference vide order dated 27.06.1978. The petitioners filed revision before the Financial Commissioner, Revenue, Punjab which was allowed vide order dated 24.07.1984 (Annexure P-1) and matter was remanded to the Chief Settlement Commissioner. Thereafter, the Managing Officer, vide order dated 21.10.1997 (Annexure P-3) accepted the claim of the predecessors-in-interest of the petitioners and held that 1SA-15¼ Units of land were wrongly cancelled from the name of Karnail Singh and Bhagwan Singh and they might be allotted alternative area to that extent. The case was sent to the Financial Commissioner, Revenue, Punjab by making a reference dated 07.06.2001 (Annexure P-4). The Financial Commissioner, Revenue, Punjab accepted the reference vide impugned order dated 07.07.2004 (Annexure P-5) and asked the Deputy Commissioner-cum-Chief Settlement Commissioner, Ludhiana to retrieve the excess area. Thereafter, the petitioners filed CWP-16369-2014 before this Court which was dismissed as withdrawn with liberty to file review application, if the same is maintainable. The review application of the petitioners was disposed of by the Financial Commissioner, Punjab with the observation that the review application may be filed on the administrative side as earlier order was passed by the Financial Commissioner, Revenue, Punjab. The office of MEO was directed to make calculation once again, if review application is filed. The petitioners filed review application but the same was returned to the petitioners with the remarks that post of Managing Officer (HQ) has

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been abolished due to repealment of Displaced Persons (Compensation and Rehabilitation) Act, 1954. Thereafter, the petitioners again submitted application dated 22.06.2009 with the request to decide the case as per order dated 04.03.2009 passed by a Division Bench of this Court in CWP-9558-2006. The said application was dismissed by the Claim Commissioner, Punjab, vide impugned order dated 09.07.2010 (Annexure P-11). The petitioners preferred appeal under Section 4-E of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009 before the Financial Commissioner, Punjab which was also dismissed vide impugned order dated 28.08.2012 (Anexure P-13). Hence, this petition.

I have heard learned counsel for the parties and perused the record.

The identical issue as involved in the present petition has already been dealt with by this Court in ***Ashwani Kumar Munjal vs. State of Punjab and another*** 2014(4) RCR(Civil) 303 wherein it has been held as under:

“The '1976 Act' stands repealed. Thereafter, Punjab Package Deal Properties (Disposal) Amendment Act, 2009 came into force. Its following sections are relevant for decision of this petition:

“4-A. The package deal property may also be transferred to a displaced person in accordance with the provisions of sections 4-B, 4-C, 4-D and 4-E of the Act.

4-B. (1) A displaced person in whose favour, an order regarding entitlement to property in lieu of

property, left in Pakistan, was passed by any authority, appointed under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 since repealed (hereinafter referred to as the repealed Act of 1954) up to the 5th day of September, 2005, but the property was not allotted or the possession of the allotted property was not given to him, or in whose case, proceedings were pending before any authority for allotment or possession up to the said day, may apply, within a period of ninety days from the date of commencement of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009, to the following authorities namely:-

- (a) the Financial Commissioner, Revenue, if the order was passed by the State Government under the repealed Act of 1954; and*
- (b) the Claims Commissioner, if the order was passed by an authority, other than the State Government.”*

Section 4-B of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009 which has come into force on 01.04.2009 provides that if proceedings were pending before any authority for allotment or possession up to the said day, concerned person may apply within a period of ninety days from the date of commencement of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009. The petitioner moved the appropriate application/representation for revival of his claim which was pending at the relevant time.

Be that as it may, the fact remains that the Claims Commissioner while passing the impugned order has not taken into consideration the amended provisions of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009. In view of above, the impugned order (Annexure P-6) is set aside. The petitioner will be

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at liberty to file an appeal along with application for condonation of delay before the appropriate forum in accordance with law. If the same is filed by the petitioner within one month on receipt of certified copy of this order, appropriate order shall be passed in accordance with law. The concerned authority will take into consideration the attending circumstances while deciding the application for condonation of delay.

Disposed of.”

The matter in hand is squarely covered by the judgment rendered in ***Ashwani Kumar Munja 's case (supra)***. Resultantly, the impugned orders dated 28.08.2012 (Annexure P-13) passed by respondent No.1-Financial Commissioner (Revenue), Punjab and dated 09.07.2010 (Annexure P-11) passed by respondent No.2-Claim Commissioner are set aside. The petitioners will be at liberty to approach the appropriate forum in accordance with law within one month on receipt of certified copy of this order and in that event, appropriate order shall be passed by the concerned authority in accordance with law.

Disposed of.

10.08.2015

parveen kumar

**(Paramjeet Singh)
Judge**