

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.1036 of 2015 (O&M)

Date of Decision: July 15, 2015

Santokh Singh and othersAppellants

versus

The Financial Commissioner, Revenue, Punjab and another
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Dinesh Ghai, Advocate, for the appellants.

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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?*

Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 04.03.2015 whereby learned Single Judge has dismissed the appellants' writ petition with costs of Rs.50,000/-. The appellants had laid challenge to the orders dated 16.04.2013 and 25.02.2014 passed by Claims Commissioner, Revenue & Rehabilitation Department and Financial Commissioner, Revenue, Punjab, respectively, rejecting the claim of appellants for allotment of 150 standard acres additional land to make good the alleged deficiency in their claim under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as 'the 1954 Act').

[2] The appellants through a petition dated 27.02.2012 (P-3) purportedly filed under the Punjab Package Deal Properties (Disposal) Amendment Act, 2009 (hereinafter referred to as 'the Amendment Act, 2009'), applied to the

Claims-Commissioner (respondent No.2) to make good the deficiency in allotment of land in lieu of the land alleged to have been left by their predecessors in three villages in Pakistan.

[3] The precise case of the appellants was that on migration to India, their predecessors were allotted land measuring 89 standard acres in village Jaikher, Tehsil Patran, District Patiala, whereas as per their eligibility and entitlement, about 240 standard acres land ought to have been allotted to them. It is an admitted fact that the allotment of 89 standard acres of land was made in the year 1957 and the alleged deficiency in allotment was pointed-out by the appellants first time in the year 2012 only.

[4] The Claims-Commissioner vide order dated 16.04.2013 (P-4) turned down the appellants' claim on the ground of delay and laches as well as keeping in view the statutory bar created by Section 67-A of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (hereinafter referred to as 'the 1955 Rules'), whereunder such a claim could be lodged not later than 31st day of December, 1963. The Claims Commissioner placed reliance on the decision in Union of India and others versus Hardial, AIR 2010 SC 1155 as well as a decision of this Court in Vidyasagar versus State of Haryana (CWP No.3142 of 1987 decided on 29.11.2010) and rejected the appellants' claim. It was also noticed that the 1954 Act under which the appellants wanted to revive their obsolete claim, stood repealed by the Amendment Act 2009.

[5] The appellants then preferred a statutory appeal under Section 4-E of 2009 Act before the Financial Commissioner, Revenue, Punjab, who too vide its order dated

25.02.2014 rejected their claim for being raised after more than 60 years. Learned Financial Commissioner took notice of the fact that the Amendment Act, 2009 permits to entertain the belated claims if filed within a period of 90 days from the date it came into force but the appellants admittedly raised no claim within that stipulated period also.

[6] The relentless appellants challenged both these orders before the learned Single Judge who doubted their bonafides and rightly so, behind seeking allotment of a huge chunk of land of 150 standard acres suddenly after 60 years. It was observed that in the absence of pedigree to relate themselves with the persons who allegedly abandoned their land in three villages now in Pakistan, appellants have no locus-standi also. Learned Single Judge referred to Rule 67-A of the 1955 Rules whereunder unsatisfied claims could be lodged before 31.12.1963.

[7] Learned Single Judge has further observed that the 1954 Act has since been repealed and under the saving clause only those proceedings are to be entertained which were pending at the time of repeal. Undisputedly, no claim lodged by the appellants was pending at that time. Learned Single Judge has thus imposed the cost of Rs.50,000/- on the appellants.

[8] We have heard learned counsel for the appellants at a considerable length and gone through the records.

[9] As the facts and the relevant provisions of Statute and Rules speak for themselves, the appellants have chosen to rake up a dead claim after an unexplained delay of over 60 years. During the course of hearing, it is pointed-out that one of the appellant is 89 years old. It is obvious that some of the

appellants were not only major but were sufficiently grown up at the time when the unfortunate partition of the country took place. They were fully aware of the land holdings, if any, abandoned by their family in Pakistan and the fact that only 89 standard acres land was allotted to them in district Patiala in the year 1957.

[10] It is not a case of a small deficiency, if it was actually there. The land allotted in the year 1957, according to the appellants, was only $1/3^{\text{rd}}$ of their entitlement. If this were a truth, it is unbelievable that they would have sit silent for such a long period.

[11] No case to interfere with the order passed by learned Single Judge is made out.

[12] Dismissed.

[SURYA KANT]
JUDGE

July 15, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM No.2150 and 2151 of 2015 in
LPA No.1036 of 2015

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Santokh Singh and others vs The Financial Commissioner
Revenue, Punjab and another

Present : Mr.Dinesh Ghai, Advocate,
for the applicant-appellants.

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Since the main appeal has been decided on
merits, no separate order is required to be passed on these
applications for condonation of delay in filing and re-filing the
appeal.

(SURYA KANT)
JUDGE

July 15, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE