

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.1737 of 2014 (O&M)

Date of Decision: July 23, 2015

Wazir Singh and others

.....Appellants

versus

State of Punjab and others

.....Respondents

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

Present: Mr.V.K.Shukla, Advocate, for the appellants.
Mr.Rajinder Goyal, Additional AG, Punjab.
Mr.N.S.Sodhi, Advocate, for respondent No.5.

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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 impugns the order dated 23.07.2014 whereby learned Single Judge has dismissed the appellants' writ petition in which they challenged the orders passed by Revenue Authorities (P-1, P-3 & P-5). Vide these orders, the so called allotment of land measuring 67 kanals 18 marlas in village Thuth Garg, Tehsil and District Moga, in favour of the appellants was cancelled.

[2] The facts may be noticed briefly.

[3] The land in dispute was surplus evacuee land belonging to the Central Government and it was put to auction on 09.03.1966. It was a restricted auction in which only the persons belonging to Scheduled Caste Category could participate. Respondent No.5, who belongs to that category,

was the highest bidder for a consideration of Rs.5,000/-. He deposited the entire amount and possession of the land was delivered to him vide rapat rojnamcha No.363 dated 24.08.1966.

[4] The case of respondent No.5 was that when the Punjab State was in the grip of terrorism, the appellants forcibly dispossessed him from the land and took its unauthorized possession. Appellants' names were entered in the column of cultivation and based upon such entry as “unauthorized occupants on the Government land”, they applied for allotment of the land under the Government Policy dated 10.03.1997 (P-6) which enables the unauthorized occupants of Government land to purchase the same on payment of nominal consideration. The appellants deposited Rs.60,157/- in Government Treasury, whereupon Conveyance Deed was executed in their favour on 22.04.1998.

[5] The authorities while executing the above-stated Conveyance Deed, unfortunately over-looked the previous revenue record suggesting that respondent No.5 had become the owner of the land on deposit of entire auction money.

[6] It appears that the factum of allotment of land in favour of respondent No.5 came to the notice of the Tehsildar (Sales), Zira, who made a suo-moto reference on 15.10.1999. An enquiry was held and it was found that the land in question stood allotted to respondent No.5 through restricted auction way back in the year 1966. The Deputy Commissioner-cum-Chief Sales Commissioner, Moga thus passed the order dated 15.12.2006 holding that the subject land could not have been sold to the appellants on the plea that they were in its unauthorized occupation.

[7] The appellants challenged the above-stated order before Appellate Authority who dismissed their appeal on 25.08.2009. Still dissatisfied, the appellants filed revision petition which also met with the same fate and was dismissed by the Financial Commissioner (Appeals) vide order dated 11.05.2010.

[8] The appellants challenged the above-mentioned orders before learned Single Judge who summoned the entire original record for his satisfaction and found it as a matter of fact that respondent No.5 had deposited the entire auction money of Rs.5,000/- and possession of the land was duly handed-over to him in the year 1966. Learned Single Judge has further found that the revenue records were got changed in a clandestinely manner at the instance of appellants who got executed the Conveyance Deed even though the land had already been allotted to respondent No.5.

[9] As the facts would speak for themselves, the appellants were neither unauthorized occupants over the 'Government land' nor they were entitled to purchase it in terms of the Government Policy dated 10.03.1994.

[10] In fact, the very Policy which permits purchase of immovable property which is unauthorisedly occupied, has been adversely commented by the Hon'ble Supreme Court as well as this Court in Jagpal Singh and others versus State of Punjab and others, (2011) 11 SCC 396, holding that "such letters are wholly illegal and without jurisdiction. Such illegalities cannot be regularized. It was held that the common interest of the villagers cannot be permitted to suffer merely because the unauthorized occupation has subsisted for many years...." Hon'ble Supreme Court further observed that "acts

of the case reveal very sorry state of affairs as to how the public property can be looted with connivance and collusion of the so called trustees of the public properties. It reflects on the very bad governance of the State authorities (Emphasis supplied)..."

A similar allotment was strongly disproved by this Court in the cited decision. In the instant case, the appellants are not entitled to the benefit of the above-stated policy as the land had already been allotted to respondent No.5 in accordance with law.

For the reasons afore-stated, we do not find any merit in this appeal.

Dismissed.

We find from the record that disciplinary/penal action is recommended against the then Tehsildar and Patwari who maneuvered the Conveyance Deed in favour of the appellant. If such proceedings are still pending, the concerned forum shall decide the same expeditiously keeping in view the larger public interest.

If the appellants resist delivery of possession in favour of respondent No.5, we direct the Senior Superintendent of Police, Moga to provide adequate police assistance to ensure that possession of the land is restored in favour of respondent No.5.

[SURYA KANT]
JUDGE

July 23, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE