

COCP No. 3370 of 2014 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)

COCP No. 3370 of 2014 (O&M)
Date of Decision: October 21, 2016

Sudesh Mehta

...Petitioner

Versus

Shri Dalip Singh, IAS

...Respondent

(2)

COCP No. 3371 of 2014 (O&M)
Date of Decision: October 21, 2016

Smt. Vidya Wanti

...Petitioner

Versus

Shri Dalip Singh, IAS

...Respondent

(3)

COCP No. 3372 of 2014 (O&M)
Date of Decision: October 21, 2016

Bansi Lal @ Bansari Lal

...Petitioners

Versus

Shri Dalip Singh, IAS

...Respondent

(4)

COCP No. 3373 of 2014 (O&M)
Date of Decision: October 21, 2016

Krishan Gopal & another

...Petitioners

Versus

Shri Dalip Singh, IAS

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIHI

Present: Mr. Pawan Bakshi, Advocate
for the petitioner.

Dr. Sushil Gautam, DAG, Haryana.

AUGUSTINE GEORGE MASIHI, J. (Oral):

COCP No. 3370 of 2014 (O&M)

CM No.19559-CII of 2016

Exemption is granted from filing certified copies of Annexures P-9 to P-11 and the same are taken on record, subject to all just exceptions.

Application stands disposed of.

COCP Nos. 3370 to 3373 of 2014

By this order, I propose to dispose of COCP Nos.3370, 3371, 3372 and 3373 of 2014, which arise out of a common order passed in CWP Nos. 6850, 6891, 6892 and 8480 of 2004, of which the lead case was CWP No.6850 of 2014, titled as 'Lahori Ram @ Lahori Lal Mehta Vs. The Commissioner and Secretary to Government of Haryana & others'. Counsel for the parties have requested that COCP No.3370 of 2014, titled as 'Sudesh Mehta Vs. Shri Dalip Singh, IAS', may be taken up for consideration and decision as it arises from CWP No.6850 of 2004 in which the order was passed by the Division Bench and the issues involved in other three connected contempt petitions are identical and therefore, all the four contempt petitions can be disposed of by a common order. Accordingly, the counsel for the parties have referred to the facts as mentioned in COCP No.3370 of 2014 and addressed arguments in the said contempt petition.

2. Petitioner has approached this Court alleging non-compliance of the order dated 08.08.2013 passed by this Court in CWP No.6850 of 2004, titled as 'Lahori Ram @ Lahori Lal Mehta Vs. The Commissioner and Secretary to Government of Haryana & others' and other connected writ petitions, whereby, the said writ petition was allowed with a direction to the respondent to re-allot the land to the petitioner as per the order dated

14.05.1992 passed by the Chief Settlement Commissioner, Chandigarh.

3. It is the contention of the learned counsel for the petitioner that initially allotment was made in favour of the petitioner on 29.10.1955. He contends that as per the allotment, the petitioner was allotted land measuring 2 Standard Acres $3\frac{1}{4}$ Units. But thereafter, it came to the knowledge of the respondent that the petitioner had given some land in mortgage to some Muslims in Pakistan because of which the order dated 02.09.1960 was passed by the Managing Officer cancelling the allotment of area to the extent of $7\frac{1}{2}$ Units because of this mortgage. He contends that after the cancellation of the allotment, the petitioner challenged the same and ultimately, an order dated 14.05.1992 was passed by the Chief Settlement Commissioner, Chandigarh, which has been accepted by this Court while passing the order dated 08.08.2013, according to which, re-allotment had to be made to the petitioner to the extent he was entitled to ignoring the cancellation order dated 02.09.1960. He contends that after such an order having been passed, till date no land has been allotted to the petitioner. He, therefore, contends that the respondent has violated the order passed by this Court.

4. On the other hand, counsel for the respondent has referred to the affidavit dated 22.07.2016 filed by the Tehsildar (Sales), Panchkula, and with reference thereto, it has been stated that although the land to the extent of $7\frac{1}{2}$ Units was cancelled vide letter No.715/R dated 02.09.1960 issued by the Managing Officer, but this was a mere paper transaction in the form of entry in the jamabandi for the year 1958-59 with regard to the cancelled

area to the extent of 7 ½ Units. It has further been stated that the actual physical possession of the area was not taken and remained with the allottee as no specific khasra number or area was cancelled or retrieved back from the allottee and this entry remained continued in the subsequent jamabandis. Thereafter, consolidation proceedings took place in the year 1960-61 and Shri Lahori Lal, husband of the the petitioner, as per the valuation of the land was allotted a total area measuring 33 kanals and 1 marla and possession thereof was given/allotted to the allottee which is evident from the Khatauni Paimaish (Annexure P-6). The husband of the present petitioner Shri Lahori Lal, predecessor-in-interest of the petitioner, vide sale deed No.288 dated 30.06.1980 sold the land measuring 32 kanals and 1 marla. Mutation was sanctioned at Sr. No.521. Shri Lahori Lal died on 08.10.2008 and the mutation of the remaining one kanal land was sanctioned in favour of the petitioner who is wife of Shri Lahori Lal vide mutation No.861 dated 17.05.2008. Petitioner sold the land measuring 6 marlas vide sale deed No.808/1 dated 28.02.2009 and mutation No.884 was sanctioned on 31.05.2009. Petitioner, thereafter, sold the land by way of two separate sale deeds, one for 12 marlas and other for 2 marlas, both dated 18.02.2009 and mutations thereof were sanctioned on 31.05.2009 and 12.01.2015 respectively. Petitioner is, thus, left with no land either in her name or in the name of her deceased husband out of the land, the Proprietary Rights of which were issued in favour of Shri Lahori Lal on 29.10.1955. It has further been stated that even the entry of cancellation of 7½ Units which was existing on the records has also been removed from the

revenue records vide Rapat No.241 dated 13.03.2015 of Roznamcha Vakiati.

5. Thereafter, counter-affidavit has been filed by the petitioner but despite a specific question being asked by this Court, the counsel for the petitioner has not been able to point out even a single sentence in any of the affidavits which have been filed by the petitioner that the possession of the land which was initially allotted to her husband Shri Lahori Lal on 29.10.1955 and possession given, was taken back after the order of cancellation dated 02.09.1960 to the extent of 7½ Units.

6. In the light of the above factual position, the assertion as made by the respondent in their affidavit dated 22.07.2016 has to be taken to be correct and is, accordingly, so accepted.

7. At this stage, counsel for the petitioner states that 7½ Units land had never been allotted to the petitioner. This fact cannot be accepted in the light of the specific order of cancellation dated 02.09.1960, which is very clear and specific to the extent of 7½ Units out of the allotted land of 2 Standard Acres and 3¼ Units. That apart, the husband of the petitioner and the petitioner have sold out of the total land i.e. 33 kanals and 1 marla, which was allotted to the husband of the petitioner on consolidation in pursuance to the land allotted to the husband of the petitioner on 29.10.1955, as is apparent from the sale deeds referred to above.

8. In view of the above, this Court is of the considered view that the respondents have not committed any contempt of Court as there is nothing to show that they have violated the order 08.08.2013 passed by the

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Division Bench of this Court in CWP No.6850 of 2004 & other connected cases.

9. The contempt petition stands dismissed. Accordingly, the other three connected contempt petitions are also dismissed.

10. Rule issued to the respondent(s) stands discharged.

(AUGUSTINE GEORGE MASIH)
JUDGE

October 21, 2016
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No