

Civil Writ Petition No. 631 of 2000
Civil Writ Petition No. 3517 of 2000

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

Civil Writ Petition No. 631 of 2000
Date of Decision: 20.9.2016

Chamba Ram

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

Civil Writ Petition No. 3517 of 2000

Bhagwan Dass @ Kakku Ram

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Mukand Gupta, Advocate and
Ms. Rupinder Kaur Thind, Advocate
for the petitioners.

Mr. Yatinder Sharma, Additional A.G. Punjab.

RAMESHWAR SINGH MALIK J. (ORAL)

These two identical writ petitions bearing CWP Nos. 631 and
3517 of 2000 are being decided together vide this common order, because
both these writ petitions are arising out of similar facts and raise same

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questions of law. However, for the facility of reference, facts are being culled out from CWP No. 631 of 2000 (Chamba Ram Vs. State of Punjab and others).

Feeling aggrieved against the orders dated 23.4.1997 (Annexure P-4) and 6.7.1998 (Annexure P-5), in both these writ petitions, petitioners have approached this Court by way of these two writ petitions, under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Notice of motion was issued vide order dated 20.1.2000 passed by a Division Bench of this Court. Later on, both the writ petitions were admitted for regular hearing. However, no written statement has been filed either on behalf of official respondents or on behalf of private respondents.

Heard learned counsel for the parties.

The material facts which have gone undisputed between the parties are that one Arjun Singh migrated from Pakistan. In lieu of his verified claim, he was allotted land measuring 12-9 1/4 standard acres in village Balluana, Tehsil Abohar, District Ferozepur, now District Fazilka, in the year 1950. He was also allotted land measuring 4.10 standard acres in village Nigdhu, District Karnal, Haryana, in the year 1952. Pursuant to the abovesaid allotments, proprietary rights were also conferred on Arjun Singh-allottee. Petitioners purchased land from Arjun Singh vide two separate sale deeds of even date i.e. 12.3.1964. Petitioner-Bhagwan Dass purchased land measuring 8 kanal whereas Chamba Ram purchased land measuring 19 kanal 16 marla. Since the original allottee-Arjun Singh was owner in possession on the date of sale, he put his vendees in possession of the land in

question.

After sometime, it came to be transpired that Arjun Singh was not entitled for allotment of the land in village Nigdhu, District Karnal. A reference was made by the concerned authorities of State of Punjab to the State of Haryana and the matter was taken up for cancellation of allotment of land measuring 4.10 standard acres of village Nigdhu, District Karnal. Exercising his sou moto powers under Section 18 (6) of the Punjab Security and Land Tenures Act, 1953, Financial Commissioner, Haryana, vide order dated 22.6.1993, cancelled the allotment made in favour of Arjun Singh in the year 1952, qua the land measuring 4.10 standard acres in village Nigdhu, District Karnal.

Said order was challenged by Tarlok Singh and another-vendees of Arjun Singh, qua the land in village Nigdhu by way of CWP No. 8604 of 1993 (Tarlok Singh and another Vs. Chief Settlement Commissioner, Haryana and others), claiming themselves to be bonafide purchasers. Said writ petition came to be allowed by this Court, vide order dated 27.8.2016, holding that since vendees of Arjun Singh were bonafide purchasers for due consideration, they were entitled for statutory protection under Section 41 of the Transfer of Property Act, 1882.

When confronted with the abovesaid legal as well as factual situation obtaining in these cases, learned counsel for the State could not address any meaningful argument in support of the impugned orders and rightly so, it being a matter of record. It is not in dispute that petitioners purchased the land from their vendor-Arjun Singh, for due consideration. Arjun Singh was the absolute owner of land, as recorded in the relevant

record and there was no cloud on his title. Petitioners exercised due diligence at the time of purchase of the land. In this view of the matter, it can be safely concluded that petitioners were bonafide purchasers for due consideration.

The abovesaid view taken by this Court also finds support from the judgment dated 3.6.2011 in **CWP No. 12023 of 1990 (Madan Gopal son of Sh. Mohan Dass and others Vs. Financial Commissioner (Revenue) and Secretary to Government, Haryana and others)**.

While deciding issue of bonafide purchase in **Madan Gopal's case** (supra), this Court in para 4 of the order dated 3.6.2011, held as under:-

*“The issue of bonafides of purchase and the right of a purchaser to hold of to the property despite the cancellation of allotment made earlier is squarely governed by a decision of this Court in **Mohinder Singh and others Vs. State of Punjab and others (1996) 113 PLR 225**. The facts are absolutely similar except that the original allotment was made in the year 1962 and after the allottee had sold the property in the year 1968, the cancellation of the original allotment was made in the year 1976. Relying on an earlier judgment of this Court in **Kali Ram and others Vs. Union of India (1976) 78 PLR 475**, the Court held that Section 41 of the Transfer of Property Act was bound to be invoked to the persons, who had been bonafide and the impermissibility of a State to cancel after fairly a length of time. The learned Judge also referred to the Division Bench ruling in **State of Haryana Vs. Savitri Devi and Ors. 1986 PLJ 656** and **Rattan Singh and another Vs. Chief Settlement Commissioner Haryana and Ors. 1978 PLJ 47** to hold that a situation like this would call for invoking Section 41 of the Transfer of Property Act, for the rights acquired by*

the innocent purchasers from ostensible owners cannot easily be blighted.”

Once the allotment in favour Arjun Singh qua land measuring 12.9 standard acres in village Bulluana was not cancelled, till it was purchased by both the petitioners, subsequent action qua this land would be of no consequence. To this extent, these two writ petitions would be covered in favour of the petitioners by the order dated 27.8.2016 passed by this Court in **Tarlok Singh’s case** (supra).

Neither any contrary judgment was cited nor any other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that impugned orders are liable to be set aside and the same are accordingly set aside. Both the writ petitions deserve to be accepted and petitioners are declared bonafide purchasers.

With the abovesaid observations made, both these writ petitions stand allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

20.9.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No