

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

CWP No.18666 of 2016
Date of Decision: 08.09.2016

Ghanshyam Dass Mallick @ Ganesh Dass and others

. . . Petitioners

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Atul Lakhanpal, Senior Advocate with
Ms. Bably Kumari, Advocate
for the petitioners.

Rameshwar Singh Malik, J. (Oral)

Present writ petition is directed against the order dated 28.05.2014 (Annexure P-13), passed by Additional Secretary, Revenue, Haryana, whereby application of the petitioners for allotment of land, in lieu of the land left by their predecessors-in-interest in Pakistan, at the time of partition of the country, was declined.

Heard learned senior counsel for the petitioners.

The best case put forward on behalf of the petitioners is an official communication dated 05.05.1952 (Annexure P-7), which was addressed to one Shri Chander Bhan son of Jiwan Dass, wherein it was recorded that his application dated 28.09.1951 was considered for allotment of land, but since the area recorded in the *jamabandi* was old *Banjar*, land was not allotted. He was further informed that his application with an exchange of the khasra girdawari in Pakistan for the year 1947, would be

considered only after an exchange with Pakistan's record of his file/case. A reading of this communication would show that applicant was duly informed about the reason by the Land Claims Office, Jalandhar that the land could not be allotted. Thereafter, Chander Bhan son of Jiwan Dass never put up his claim for allotment of any land, in lieu of the land left by him in Pakistan.

Petitioners are claiming themselves to be sons, grandsons and other legal representatives of Late Shri Jiwan Dass. In fact, the petitioners approached the respondent authorities for the very first time somewhere in the year 2008. Their application was replied vide letter dated 29.04.2008 (Annexure P-10), informing petitioner No.1 that old record regarding the allotment of land was available in the office of Director, Land Record, Kapurthala Road, Jalandhar. Accordingly, petitioner was advised to take up the matter with the Director, Land Record, Jalandhar, because the petitioners vide their application only sought copy of old record dated 14.07.1948, meaning thereby the petitioners did not seek any allotment vide their application submitted for the first time in the year 2008.

Finally, the petitioners filed their petition on 31.05.2011, before the Additional Secretary, Revenue and Disaster Management Department, Haryana (Rehabilitation Branch), which after due consideration of the matter came to be dismissed, vide impugned order dated 28.05.2014 (Annexure P-13). The argument raised by learned senior counsel for the petitioners is that once the petitioners as well as their predecessors-in-interest were not allotted any land, despite the fact that they were having verified claim, the impugned order is patently illegal and the same is liable to be set aside.

Having heard the learned senior counsel for the petitioners at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned order has not been found suffering from any patent illegality or perversity and the same deserves to be upheld. The writ petition is without any merit and it is liable to be dismissed.

Before proceeding further, operative part of the impugned order dated 28.05.2014 deserves to be noticed and the same reads as under:-

“I have considered the matter and have gone through the record of the case. The Central Government vide Displaced Persons Claims and Other Laws Repeal Act, 2005, repealed the Displaced Persons (Compensation and Rehabilitation) Act, 1954 alongwith the allied enactments. However, the Government of India vide letter dated 22.9.2008 issued a clarification to the effect that repeal will not affect disposal of following category of cases and such cases will be settled under the relevant State Laws:-

- “3.1 Unsatisfied certified claims filed under the Displaced Persons (Claims) Act, 1950, in which right has accrued or has been acquired and which were pending as on 6.9.2005, the date on which the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and other relates Acts were repealed.*
- 3.2 Cases in which directions have been issued by various Courts for settlement of claims filed, confirming that an acquired or accrued right exists in favour of the claimant, under Displaced Persons (Claims) Act, 1950.*
- 3.3 Verified claims in which full compensation has no been given so far.*
- 3.4 Appeals and revision/review petitions filed against orders passed by the authorities prescribed under the repealed Acts which are yet to be disposed off.”*

The petitioners have filed this petition in the year 2011. The petitioners have failed to show that they had unsatisfied certified claim filed under the Displaced persons Claim Act, 1950 in which right has been accrued or has been acquired and which was pending as on 6.9.2005 or any appeal, revision etc. pending of disposal of by any competent authority in their favour. The case of the petitioners is not covered under the instructions/clarification issued on 22.9.2008.

In view of the foregoing discussion, I find no merit in this petition and the same is hereby dismissed.”

A bare reading of the record of the case would make it crystal clear that there is no document available which may even remotely suggest that the petitioners have a verified claim in their favour or in favour of their predecessors-in-interest. Their case was not covered under any of the clauses reproduced by the Additional Secretary, Revenue, in the impugned order. Neither the petitioners were having any certified claim nor there was any order passed by any court of law confirming that the petitioners had acquired/accrued any right in their favour at any point of time.

Similarly, it was not a case of claiming compensation for a verified claim nor any appeal or revision had been pending before any court of competent jurisdiction, at the instance of the petitioners. In fact, after this communication Annexure P-7 dated 05.05.1952, there is no representation or legal notice ever issued by the petitioners before submission of their application in the year 2008, seeking supply of old record dated 14.07.1948, which was replied vide above-said letter dated 29.04.2008 (Annexure P-10). Thus, there is no explanation, whatsoever, for this inordinate long period of 56 years. Having said that, this Court feels no no hesitation to conclude that it is a dead claim and the petitioners are now trying to get the same revived, which is not permissible under law.

The above-said view taken by this Court also finds support from a direct judgment of Hon'ble Supreme Court of India in **Union of India and others Vs. Har Dayal 2010(1) SCC 394**. The relevant observation made by the Hon'ble Supreme Court of India in paras 7 to 9 of its judgment in **Har Dayal's** case (supra), which can be gainfully followed in the present case, read as under:-

“7. The learned Single Judge and the Division Bench have totally ignored the enormous delay of more than 30 years on the part of the respondent in approaching the Court. This Court has repeatedly held that merely giving representation will neither extend the limitation nor wipe out the delay and laches. [See : S.S. Rathore vs. State of MP – AIR 1990 SC 10]. Further the respondent and his brothers were categorically informed in September, 1989 that due to non-availability of agricultural land, they were entitled only to cash equivalent of compensation as per the rules and therefore, Rs.383/50 each being their share of compensation was to their credit and they could draw the same. Respondent could have challenged that order on the ground that he was entitled to land and not cash. But he did not do so. The refusal to allot the balance land whether right or wrong, attained finality. Obviously, it could not be reopened by filing a writ petition in 1996, more than 45 years after the verification of the claim, and 7 years after categorical refusal to allot land. The writ petitions ought to have been rejected on the ground of delay and laches. There was no question of rewarding the delay on the part of respondent, by directing payment of current market value of 1996 for the undelivered land, contrary to the Rules.

8. The orders of the learned Single Judge and Division Bench are also bad for vagueness. The learned Single Judge held that as no land was available the respondent was not entitled to land but nevertheless held that the compensation of Rs.383.50 calculated in accordance with the Rules, amounted to a

pittance after all these years and therefore he should be given the market value of the land as on the date of the writ petition. But different areas of Delhi have different market values. In fact, there is no rural agricultural land available and no standard market price for agricultural land. The value of land is always with reference to a particular land or a land in a specified area. We fail to understand how the appellants can be expected to calculate the value of the 'land' in 1996 and pay him the value as compensation.

9. On the facts and circumstances, the judgment of the High Court directing payment of the market value as in 1996 cannot be sustained. The writ petition ought to have been dismissed on the ground of delay and laches."

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned order has not been found to be suffering from any patent illegality or perversity. Instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

08.09.2016
mks

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No