

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CWP No.20447 of 2014  
Date of decision:19.8.2016**

Sushil Kumar and others

...Petitioners

**Versus**

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

**Present:** Mr.D.V.Sharma, Sr. Advocate with  
Ms.Eshjot Walia, Advocate for the petitioners.  
Mr.Yatinder Sharma, Addl.A.G., Punjab.

**RAMESHWAR SINGH MALIK, J. (Oral)**

Instant writ petition is directed against the order dated 29.1.2013 (Annexure P-13) passed by the Financial Commissioner (Revenue), Punjab, whereby appeal of the petitioners was dismissed and the order dated 30.4.2010 (Annexure P-11) passed by the Special Secretary Revenue, Punjab-cum-Claims Commissioner, rejecting the claim of the petitioners for possession of land, pursuant to its allotment in favour of their grandfather made vide order dated 13.3.1953, was upheld.

Notice of motion was issued and in compliance thereof, written statement has been filed on behalf of the respondents.

Heard learned counsel for the parties.

It has gone undisputed before this Court that Late Shri Ishar Dass son of Nihal Chand, grandfather of the petitioners, was allotted land vide letter dated 13.3.1953. However, neither grandfather of the petitioners nor their late father Shri Prem Chand ever came forward, seeking possession of the allotted land. Now, the averments have been taken by the petitioners

in para 6 of the petition that their father went to take possession on 25.5.1966 but Halqa Patwari reported that no allotment was made in favour of Late Shri Ishar Dass. No such report of any Halqa Patwari is available on record.

Thereafter, it seems that some representation was made on behalf of the petitioners, which was dealt with and their claim, if any, was declined vide report dated 18.6.1985 (Annexure P-3), to the effect that there was no allottee of the name of Shri Ishar Dass son of Nihal Chand. Similarly, claim of the petitioners was again declined vide report dated 26.8.2009 (Annexure P-4). Neither grandfather of the petitioners nor their father ever challenged any such order, before any competent court of law. Even if it is accepted for the sake of argument and on the merits of the case, that father of the petitioners and after his death the petitioners themselves, have been making some representations before the authority concerned, that would not improve their case, because they never challenged any such order, before any court of law.

In fact, there was a strong reason with the petitioners not to approach any court of law. Reason was that they were well aware that their claim was already dead long back, which could not have been revived after such inordinate long delay, particularly when the petitioners had no explanation for the said inordinate long period of more than 50 years. If the land was allotted in favour of Late Shri Ishar Dass son of Nihal Chand vide allotment letter dated 13.3.1953, it was expected that allottee would have immediately come forward for taking possession thereof.

Now, the petitioners are in third generation of said allottee Late

Shri Ishar Dass, who have woken up from their slumber and started pursuing their dead claim. A bare reading of the impugned orders passed by the respondent authorities would show that no error of law has been committed, while passing the impugned orders and the same deserve to be upheld.

A similar issue fell for consideration before this Court in CWP No.21110 of 2014 (Santokh Singh and others Vs. The Financial Commissioner Revenue, Punjab and another) and the said writ petition was dismissed by this Court with costs of Rs.50,000/- vide order dated 4.3.2015. Learned counsel for the State has been found well justified in placing reliance on this order, to contend that the present writ petition is wholly misconceived, which is liable to be dismissed.

Again, under identical facts and circumstances, the Hon'ble Supreme Court in **Union of India and others Vs. Har Dayal, 2010 (1) SCC 394**, has held that such dead claim, after a period of 45 years, cannot be revived. The relevant observations made by the Hon'ble Supreme Court in paras 7 to 9 of its judgment in **Har Dayal's** case (supra), which can be gainfully followed in the instant case, read as under:-

*“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.*

*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.*

*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.”*

Reverting to the facts of the case in hand, it is a matter of record that allotment of land was made to Late Shri Ishar Dass, grandfather of the petitioners, way back on 13.3.1953. There is nothing on record to suggest that the original allottee Late Shri Ishar Dass ever made any effort to take the possession of the allotted land. Similarly, no sufficient material has been placed on record to show that even father of the petitioners made any sincere efforts in this regard.

It is the petitioners who tried to take the benefit of notification dated 1.4.2009 (Annexure P-9) by moving an application Annexure P-10 dated 12.2.2010. Even the said application moved by the petitioners was not within the period of 90 days, if at all that remedy was available to them under the notification dated 1.4.2009.

No explanation, even worth the name, has been given on behalf of the petitioners, for this inordinate long delay of more than 60 years. Making repeated representations or applications would not advance the case of the petitioners in any manner. It is so said because time will keep on running and one cannot put the clock back. In such a situation, law laid down by the Hon'ble Supreme Court in **Har Dayal's** case (supra), squarely applies against the petitioners.

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 none of the impugned orders has been found to be suffering from any patent illegality or perversity. No prejudice of any kind, whatsoever, has been pointed out which might have been caused to the

petitioners. Instant writ petition, having been found wholly misplaced, bereft of merit and without any substance, 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.

**19.8.2016**  
**mks**

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No