

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.9490 of 2016  
Date of decision: 01.08.2016

Ajit Rai

... Petitioner

Vs.

State of Punjab and others

... Respondents

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

Present: Mr. S.S. Sabar, Advocate  
for the petitioner.

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

Feeling aggrieved against the order dated 26.08.2014 (Annexure P-9) passed by the Financial Commissioner (Revenue), Punjab, whereby the order dated 20.09.2013 (Annexure P-8) passed by the Claims Commissioner, Punjab was upheld, petitioner has approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned orders.

It is the own set up and argued case on behalf of the petitioner that his father being a displaced person, was allotted two standard acres (4 units of land) vide allotment order dated 04.11.1971, in lieu of the land abandoned by him in Pakistan. However, since petitioner did not take possession of the allotted area, said allotment was cancelled. Petitioner was allotted another piece of land vide order dated 18.07.1974. Possession of some land out of the allotted land was allegedly not delivered to the petitioner.

It is contended on behalf of the petitioner that he has been pursuing his remedy by moving one or the other application all through this period of more than 40 years and his claim remained alive because no application moved by the petitioner was ever dismissed by the respondent authorities. He concluded by submitting that since the petitioner has been pursuing his remedy, his claim cannot be said to be suffering from any delay or latches. Since the respondent authorities have not considered this aspect in the correct perspective, while passing the impugned orders, the same are liable to be set aside. He prays for setting aside the impugned orders, by allowing the present writ petition.

Having heard the learned counsel for the petitioner 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 since the impugned orders passed by the respondent authorities have been found well justified on facts, as well as having been passed in accordance with law, the same deserve to be upheld. The writ petition is without any merit which is liable to be dismissed.

Before proceeding further, operative part of the impugned order dated 20.09.2013 passed by the Claims Commissioner, Punjab deserves to be noticed here and the same reads as under: -

*“The counsel for the State has further argued that although the petitioner has refused to the letters written by him to various authorities from time to time but merely writing letters does not mean that his case was pending before competent authority as required under the Displaced Persons (Compensation & Rehabilitation) Act, 1954. State counsel has also pleaded that the case of petitioners also suffers from delay and latches and such as*

*case with inordinate delay cannot be entertained for allotment of land as held by the Hon'ble Supreme Court in the case cited as AIR 2011 SC 1155 titled as Union of India Vs. Hardyal which is reproduced as under: -*

*“Displaced Persons (C&R) Act (44 of 1954), S.7-Limitation Act (36 of 1963), S 5-Delay and latches-Claim by refugees/displaced persons seeking allotment of land as compensation in lieu of their land in Pakistan- Verification of claim and partial satisfaction of verified claim under Displaced Persons (Claim) Act 1950 – Writ petition seeking allotment of remaining land after 45 years after verification of claim and seven years after categorical refusal to allot balance of land due to non availability – petition, held was liable to be rejected on ground of delay and latches – Mere giving representation neither extend limitation nor wipe out delay and latches – No question of rewarding delay by directing payment of market value for undelivered and contrary to Rules.”*

*In view of the law laid down by the Hon'ble Supreme court as cited above, letters written by the petitioner do not wipe out the delay and latches. There is delay of 39 years in filing the present petition and is thus not maintainable.*

*After hearing the petitioner and the counsel for the State, I am of the view that the present petition is not maintainable on account of delay in filing the petition after a period of about four years from 1.4.2009 i.e. date of enforcement of the Act. The case of*

*the petitioner also suffers from delay and latches and the representation made by the petitioner from time to time do not help him in wiping out the delay as held by the Hon'ble Supreme Court in the case of Union of India Vs. Hardyal as cited above.”*

A bare reading of the abovesaid order would show that the learned Claims Commissioner, Punjab passed the abovesaid order strictly in accordance with the true facts of the case and rightly following the law laid down by the Hon'ble Supreme Court. The claim of the petitioner was reconsidered by the appellate authority in appeal filed by the petitioner. However, finding the abovesaid order passed by the Claims Commissioner, Punjab to be a justified order, the appeal filed by the petitioner before the Financial Commissioner (Revenue), Punjab was dismissed vide impugned order dated 26.08.2014 (Annexure P-9).

After some time, petitioner sought review of the order (Annexure P-9) which also came to be dismissed by the Financial Commissioner vide order dated 18.08.2015 (Annexure P-10). During the course of hearing, when confronted with the inordinate long and unexplained delay of more than 40 long years, learned counsel for the petitioner could not give any satisfactory explanation in this regard. Mere filing of repeated representations or applications at the hands of the petitioner will not keep on extending the limitation for any such claim.

Period of 40 years was a very long period and most of this period remained unexplained at the hands of the petitioner. In fact, petitioner is now trying to revive his stale claim, if any, which is not permissible in law. This Court would be exceeding its writ jurisdiction, while setting aside the impugned orders which have been passed by the respondent authorities strictly in

accordance with law. Further, no prejudice of any kind has been shown to have been caused to the petitioner, by passing the impugned orders because he himself remained casual about pursuing his remedy, in accordance with law. Since none of the impugned orders has been found suffering from any patent illegality or perversity, the same deserve to be upheld.

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 orders passed by the respondent authorities deserve to be upheld. Ordered accordingly. Present 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 observations made above, instant writ petition stands dismissed, however, with no order as to costs.

[ RAMESHWAR SINGH MALIK ]  
JUDGE

01.08.2016  
*vishnu*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No