

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

LPA No. 72 of 2016 (O&M)

DATE OF DECISION : 21.01.2016

Man Singh

.... APPELLANT

Versus

The Financial Commissioner (Revenue) Punjab, Chandigarh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present : Mr. Dinesh Ghai, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J.

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 05.05.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 7067 of 2015) filed by the appellant challenging the order dated 19.07.2013 (Annexure P-4) passed by the Claims Commissioner, Revenue and Rehabilitation Department, Punjab, as well as the order 12.08.2014 (Annexure P-6) passed by the Financial Commissioner (Revenue), Punjab, has been dismissed with costs of ₹ 10,000/-.

Vide order dated 19.07.2013 (Annexure P-4), the Claims Commissioner dismissed the application filed by the appellant on 29.05.2013 for allotment of deficient land to the extent of 55 Bighas in lieu

of the land left in West Pakistan at the time of partition, while holding that under Rule 67-A of the Displaced Persons (Compensation & Rehabilitation) Rules, 1955 (hereinafter referred to as 'the DPCR Rules, 1955'), his claim is time barred. On appeal filed by the appellant, the said order was upheld by the Financial Commissioner vide order dated 12.08.2014, while observing as under :-

“When the appeal was taken up for consideration, Sh. Dinesh Ghai, counsel for the appellant, was asked to explain the unreasonable delay of more than 50 years in pressing the claim for allotment of additional land. It was pointed out that the allotment of 335 bighas was mentioned in the jamabandi for the year 1961-62, implying thereby that it had been allotted before this year. However the plea for additional allotment had been raised for the first time only in the year 2013, after a lapse of more than 50 years. Further, though the Amendment Act, 2009 stipulated a time limit of 90 days for filing claims thereunder, the present claim has been filed after a lapse of almost four years. Sh. Ghai has not been able to explain the delay satisfactorily and has only pointed out that the appellant was a simple man with a religious bent of mind and could not exercise his right within the stipulated period. He contended that the intention of the legislature was to provide adequate relief and

compensation to those who had been uprooted from Pakistan, and their claim should not be denied on mere technicalities. This is no doubt true, but it is also a fact that courts have held that unreasonable delay in pursuing a claim would be a valid reason for its rejection. The rulings cited by the Claims Commissioner in his order i.e. Vidya Sagar Versus State of Haryana, as well as Supreme Court ruling AIR 2011 SC 1155 fully support this contention. In fact it is noteworthy that even the present appeal has been filed beyond limitation. Hence the appellant has been totally remiss in pursuing his remedy at all times.”

The learned Single Judge vide impugned order dated 05.05.2015 upheld the aforesaid orders and dismissed the writ petition filed by the appellant. It was held that under Rule 67-A of the DPCR Rules, 1955, any claim petition filed by an unsatisfied claimant for making up the deficiency of land has to be filed on or before 31.12.1963, whereas in the present case, the application for making up deficiency of the land was filed by the appellant in the year 2013, i.e. after a period of about 50 years. In this regard, the learned Single Judge also relied upon a decision of this Court in **Santokh Singh and others Versus The Financial Commissioner Revenue, Punjab and another** (CWP No. 21110 of 2014, decided on 04.03.2015). A contention was raised before the learned Single Judge that the Displaced

Persons (Compensation & Rehabilitation) Act, 1954 was replaced by the Displaced Persons Claims and other Laws Repeal Act, 2005 (hereinafter referred to as 'the Act of 2005'), therefore, the instant matter is to be adjudicated under the said Act. The learned Single Judge came to the conclusion that even under the Act of 2005, only those matters are to be adjudicated which are pending under the old Act of 1954. But in the instant case, since no claim of the appellant was pending before the authority, when the repealed Act of 2005 came into force, his old time barred claim could not have been entertained under the Act of 2005.

Before us, learned counsel for the appellant has argued that the learned Single Judge has committed grave illegality while considering the case of the appellant to be a case of fresh allotment, whereas admittedly his case is that of deficient allotment. In our opinion, this difference does not have any impact on the case of the appellant. Even in the case of deficient allotment, the appellant was required to file an application on or before 31.12.1963 under Section 67-A of the DPCR Rules, 1955, which was not filed by him. Looking from any angle, in our opinion, claim of the appellant is hopelessly time barred and suffers from delay and laches, and at this belated stage, no relief can be granted to him. Thus, we do not find any illegality in the impugned order passed by the learned Single Judge. However, keeping in view the facts of the case, the impugned order dated 05.05.2015 passed by the learned Single Judge, to the extent of imposing

costs of ₹ 10,000/- upon the appellant is set aside.

Consequently, the appeal is dismissed, ordering the deletion of costs imposed on the appellant.

(SATISH KUMAR MITTAL)
JUDGE

January 21, 2016
ndj

(SHEKHER DHAWAN)
JUDGE