

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

CWP No.14772 of 2000 (O&M)

Date of decision : 14.11.2017

Chameli Devi and others

..... Petitioners

VERSUS

Union of India and others

..... Respondents

(2)

CWP No.8132 of 2001 (O&M)

State of Haryana through Deputy Secretary, Rehabilitation Department,
Chandigarh

..... Petitioner

VERSUS

Shri Harbans Lal Arora and others

.... Respondents

(3)

CWP No.7115 of 2016 (O&M)

Kaushalya Devi

..... Petitioner

VERSUS

Union of India and others

.... Respondents

(4)

CRM-M- No.23766 of 2001 (O&M)

Satish Kumar and another

..... Petitioners

VERSUS

State of Haryana and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. Rahul Sharma, Advocate (in CWP-147722-2000)
Mr. Atul Yadav, Advocate (in CWP-7115-2016)
Mr. H.N. Mehtani, Advocate (in CRM-M-23766-2001)
for the petitioner(s).

Mr. Karan Bhardwaj, Advocate
for respondent No.1-UOI (in CWP-147722-2000)

Mr. Som Nath Saini, Advocate
for the LR's of respondent-Harbans Lal Arora
(respondent No.5 in CWP-14772-2000 and
Respondent No.1 in CWP-8132-2001)

Mr. Ashok Singla, Addl. A.G., Haryana
for the petitioner (in CWP-8132-2001)
for respondents No.2 to 4 (in CWP-14772-2000)
for respondents No.2 to 5 (in CWP-8132-2001) and
for the respondents in CRM-M-23766-2001.

SUDHIR MITTAL, J.

This judgment will dispose of CWP No.14772 of 2000 (O&M), CWP No.8132 of 2001 (O&M), CWP No.7115 of 2016 (O&M) and CRM-M-23766 of 2001 (O&M) as common questions of facts and law arise therein. The facts are being extracted from CWP No.8132 of 2001 (O&M).

2. One Jeta Ram, S/o Tikan Ram was a displaced person from West Pakistan. In lieu of the land abandoned by him in West Pakistan, he was allotted 52 standard acres 2 ¼ units in villages Kohlawas and Lamba, in Tehsil Dadri, District Bhiwani, on 19.04.1952. Said Jeta Ram died on 10.05.1989 and till the time of his death, he never re-agitated any claim regarding the land allotted to him. This signifies that during his life time, Jeta Ram felt satisfied that the area of land allotted to him and the quality thereof compensated him fully for the land abandoned by him in West Pakistan. Almost 42 years later, Harbans Lal Arora, son of aforementioned Jeta Ram submitted an application dated 09.03.1994 (Annexure P-1) to the then Revenue Minister, Haryana, alleging deficiency in allotment of land to his father. According to this application, his father had abandoned 287 acres, 03 kanals and 06 marlas

of agricultural land in fifteen villages in two Tehsils of District Muzzafargah in West Pakistan. Tehsil-wise details were mentioned therein. The grievance was that the land abandoned in Pakistan had not been properly classified nor the same had been properly valued. As a result, less land had been allotted to his father and the deficiency be made good. The said application was submitted before the Revenue Minister, Haryana on 15.03.1994, whereupon the then Revenue Minister directed verification of the facts stated in the application and asked for a report to be given within fifteen days. The application was sent to Sh. Didar Singh, Naib Tehsildar (Sales)-cum-Managing Officer (Headquarter), Rehabilitation Department, Chandigarh, who received it on 16.03.1994. He prepared a report dated 30.03.1994 in which he stated that the land abandoned in West Pakistan had not been correctly evaluated, resulting in a shortfall of $13 \frac{3}{4}$ units in the allotment of Jeta Ram. On the basis of this report, Harbans Lal Arora submitted a hand written application to the Revenue Minister requesting for additional allotment. Directions dated 22.04.1994 were issued by the Revenue Minister for transfer/allocation of additional land whereupon aforementioned Sh. Didar Singh passed order dated 27.04.1994 (Annexure P-3) recommending issuance of U.O. for additional $13 \frac{3}{4}$ units as Jeta Ram's allotment should have been 53 S.A instead of 52 S.A $2 \frac{1}{4}$ units. On the very next day, i.e., 28.4.1994, Didar Singh himself issued U.O. of even date for allotment of $13 \frac{3}{4}$ units. This U.O. referred to approval of the Government dated 22.04.1994 (which infact was a direction issued by the then Revenue Minister) and further directed that the additional land be allotted in Sale Unit, Karnal/Kaithal.

Accordingly, allotment of 10 kanals, 14 marlas of land in village Makhdum Zadgan, Tehsil Panipat, was made on 01.08.1994 by Gurcharan Singh, Tehsildar (Sales) and Parchi allotment was also issued on the same date. Thus, Harbans Lal Arora obtained an additional allotment of $13 \frac{3}{4}$ units in a district of his choice under the direct orders of the then Revenue Minister of Haryana.

3. Thereafter, Harbans Lal Arora challenged the order dated 27.04.1994 passed by the Naib Tehsildar (Sales)-cum-Managing Officer (Headquarters), Rehabilitation Department, Chandigarh, by way of a revision petition filed under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as 'the Act of 1954'), on the ground, inter alia, that less land was allotted to his father in Tehsil Dadri, District Bhiwani because the valuation thereof was not made properly. He also claimed that the valuation of certain land had been made by classifying it as 'banjar kadim' and 'gair mumkin', whereas in fact the said land was "Khajur Garden" allegedly on the basis of a jamabandi, which was attached with the revision petition. This jamabandi mentioned the word "Naklisthan", which means Palm Garden. The only respondent in the revision petition was Naib Tehsildar (Sales)-cum-Managing Officer (Headquarters), Rehabilitation Department, Chandigarh, who was none other than aforementioned Didar Singh. Notice of the revision petition was given to him and he sent a report dated 07.12.1994 stating that in fact, there was a deficiency of 5 standard acres in the allotment of Jeta Ram. This report was based upon change in the valuation of the allotted land in District Bhiwani and it meant to review

the order dated 27.04.1994 although, no review petition had been filed. Based on this report, the then Chief Settlement Commissioner, Haryana, passed an order dated 23.12.1994 allowing the revision petition and returning a finding that in fact, Jeta Ram was allotted 48 standard acres against his entitlement of 53 standard acres. There was a net deficiency of 5 standard acres, out of which, $13 \frac{3}{4}$ units had been made good by allotment of 10 kanals 14 marlas of land in District Panipat and balance 4 standard acres $2 \frac{3}{4}$ units needed to be made good. Further, it was held that the land classified as 'banjar kadim' and 'gair mumkin' should have been classified as "Naklisthan" and the valuation thereof should be re-determined by the Naib Tehsildar (Sales)-cum-Managing Officer (Headquarters), Rehabilitation Department, Chandigarh. This resulted in issuance of another U.O. dated 04.01.1995 for allotment of land measuring 4 standard acres $2 \frac{3}{4}$ units in Sale Unit, Karnal. To satisfy this order, allotment of 53 kanals 10 marlas of land was made in village Kabul Bagh, Tehsil & District Panipat on 18.01.1995. Further, Didar Singh submitted a report dated 10.02.1995, inter alia, stating that the land abandoned by Jeta Ram in West Pakistan had been re-valued by considering the 'banjar kadim' and 'gair mumkin' part of it as "Naklisthan" and therefore, an additional entitlement of 5 standard acres was worked out. This report was sent to the Chief Settlement Commissioner, Haryana, who permitted Sh. Didar Singh to pass a quasi-judicial order based upon his report. Consequently, order dated 22.02.1995 was passed holding Jeta Ram to be entitled to another 5 standard acres 2 units of land in Sale Unit, Karnal. A U.O. in respect of

this land was also issued on the same date (Annexure P-6). Then, an application dated 02.03.1995 was filed by Harbans Lal Arora, seeking 'transfer' of the allotment from 'Sale Unit Karnal' to 'Sale Unit Gurgaon', which was permitted vide order dated 06.03.1995. An application dated 13.03.1995 was filed by Harbans Lal Arora before the Tehsildar (Sales) Faridabad, for allotment of land in village Sihi, District Gurgaon and on the same date, Sh. Roshan Lal, Kanungo (Sales), Gurgaon, prepared a proposal for allotment of 85 kanals 16 marlas of land in village Sihi. Parchi allotment was prepared on 31.03.1995 and Sanad dated 03.04.1995 (Annexure P-7) was issued by the Tehsildar (Sales)-cum-Managing Officer for Sale Unit, Faridabad/Gurgaon. Symbolic possession was handed over vide Rapat No.232 dated 10.04.1995, but actual possession could not be delivered as certain persons, who alleged themselves to be Dholidars/Bhondedars were in possession. It is worthwhile to note that allotment made in Sale Unit, Karnal, was transferred to Sale Unit, Gurgaon, even though, 299 standard acres 5 ½ units barani land, 710 acres zero kanal 4 marlas of gair mumkin land and 240 acres 2 kanal 6 marlas of other land was available for allotment in Sale Unit, Karnal between 4/94 and 4/98.

4. Since, the alleged Dholidars/Bhondedars in possession of land in village Sihi were sought to be dis-posessed, they approached the incumbent Revenue Minister, Haryana, with the complaint that land under Brahmin Dholidars and Harijan Bhondedars had been illegally allotted to a displaced person. The Tehsildar (Sales) and Naib Tehsildar (Sales) were placed under suspension and the Chief Settlement

Commissioner was directed to initiate action for cancellation of the allotment. Suo motu proceedings were initiated under Section 24 of the 1954 Act and alienation was stayed till the decision of the case vide order dated 18.05.1995. This order was challenged by Harbans Lal Arora vide CWP No.7716 of 1995.

5. The Chief Settlement Commissioner, Haryana, who had initiated suo motu proceedings for cancellation of allotment was none other than Sh. M.P. Gupta, who was also the Chief Settlement Commissioner instrumental in allotment of additional land to Jeta Ram. He retired on 31.07.1995, but three days before his retirement, i.e. on 27.07.1995, the stay order was vacated by him. The vacation of the stay order came to the notice of the alleged Dholdars/Bhondedars, who challenged the same vide CWP Nos.16121 of 1995 and 16122 of 1995. The writ petition filed by Harbans Lal Arora and those by the alleged Dholdars/Bhondedars were disposed of by a common order dated 26.02.1996 with liberty to the parties to agitate their claims before the Chief Settlement Commissioner, Haryana, (Annexure P-8). Status quo, with regard to possession and alienation was also ordered.

6. Thus, four references i.e., State Vs. Jeta Ram through Harbans Lal Arora, Harbans Lal Arora Vs. State, Chameli Devi Vs. State and Sultan Singh Vs. State, were brought before the Chief Settlement Commissioner, which were decided by him on 23.12.1997. He held that allotment of 85 kanals 6 marlas of land in village Sihi, District Gurgaon, was illegal and ordered its cancellation. The claim of the Dholdars/Bhondedars was also rejected. Directions were issued to

dispose off the land by auction under the prevailing rules and instructions after giving wide publicity (Annexure P-9). This order was challenged before the Financial Commissioner and the Secretary to Govt. Haryana, Rehabilitation Department, Haryana, under Section 33 of the 1954 Act, by Harbans Lal Arora as well as by Chameli Devi etc. (alleged Dholidars/Bhondedars). Vide order dated 30.08.2000 (Annexure P-10) the revision filed by Chameli Devi etc. was rejected, but the revision filed by Harbans Lal Arora was accepted and allotment of 85 kanals 16 marlas of land in village Sihi, District Gurgaon was restored.

7. This has given rise to the present writ petitions, one filed by the State of Haryana and two filed by the alleged Dholidars/Bhondedars. CRM-M-23766 of 2001 (O&M) has been filed by Rohsan Lal, Kanungo (Sales) and Satish Kumar, Naib Tehsildar (Sales) of Faridabad/Gurgaon Sale Unit against whom FIR No.8 dated 16.05.2000 was registered by the State Vigilance Department. In fact, the said FIR was registered against five persons including Harbans Lal Arora and M.P. Gupta (the former Chief Settlement Commissioner, Haryana), but only the persons referred to hereinbefore have chosen to approach this Court for stay of filing of challan and further proceedings during the pendency of CWP No.8132 of 2001 (O&M).

8. We have heard learned counsel for the parties at a considerable length and have also examined the record. The factual matrix of this case has also been appreciated independently by us.

9. The following questions arise for determination in the present writ petitions:-

- a). Whether the allotment of additional land to Harbans Lal Arora was legal and justified?
- b). Whether the Chief Settlement Commissioner had the jurisdiction to re-open the case of allotment of Jeta Ram?
- c). Whether the alleged Dholdars/Bhondedars are entitled in law to retain the possession of the land in dispute and get themselves declared to be its owners?
- d). Whether criminal liability is attached to the actions of various officials involved in the allotment of additional land to Jeta Ram?

10. A brief examination of the law governing the allotment of land to displaced persons from West Pakistan is necessary. After the partition of the country, the States appointed custodians of evacuee property and the said property was vested in the said custodian for the State. The custodian for the State was responsible for preservation, management and administration of the evacuee property, which vested in him. The appointment of such custodians was done by various State legislations, which were finally repealed and replaced by the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the '1950 Act'). This Act, inter alia, defines "evacuee", "evacuee property", "custodian" and "custodian general". Further, it provides for notification of evacuee property, vesting of evacuee property and transfer thereof. Under this Act, the Central Government has powers to frame rules for carrying out the purposes of the Act. In the exercise of such powers, the Administration of Evacuee Property (Central) Rules, 1950 (hereinafter referred to as 'the 1950 Rules') have been enacted. A

detailed procedure has been prescribed under the 1950 Rules before a notification can be issued under the 1950 Act, declaring any property to be evacuee property. In exercise of the powers conferred upon “custodian” under the 1950 Act and 1950 Rules, “custodian” can dispossess persons who are in unauthorized occupation of evacuee property. He is also entitled to transfer the evacuee property to persons entitled to such transfer as part of his duty to manage evacuee property. The 1950 Act and the Rules framed thereunder, thus, enable identification of evacuee, evacuee property and its management for the purposes of preservation.

11. The law governing allotment of evacuee property to displaced persons from West Pakistan, i.e., satisfaction of claims of displaced persons has been enacted through the 1954 Act and the Rules framed thereunder. “Persons possessing verified claims” are entitled to be compensated and rehabilitated in terms of the provisions of the 1954 Act. For this purpose, a hierarchy of officials has been determined, viz., Chief Settlement Commissioner, Settlement Commissioner, Settlement Officer and Managing Officer. “Section 2(e) of the 1954 Act defines “verified claim” as follows:-

“(e) "verified claim" means any claim registered under the Displaced Persons (Claims) Act, 1950, (XLV of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954 , (12 of 1954) and includes any claim registered on or before the 31st day of May, 1953, under the East Punjab Refugees (Registration of Land Claims) Act, 1948 (East Punjab Act XII of 1948), or under the Patiala Refugees (Registration of Land (Claims)

Ordinance, 2004 (Order 10 of 2004 BK), and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of this Act, but does not include-

(i) any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;

(ii) except in the case of a banking company for the purpose of sub-clause (i) of clause (b) of sub- section (3) of section 6, only--

(a) any such claim made by or on behalf of any company or association, whether incorporated or not;

(b) any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced person in West Pakistan.”

12. In terms of Section 4 of the 1954 Act, a displaced person possessing a “verified claim” can make an application in respect thereof within three months from the date of notification issued by the Central Government, the last of which was issued on 30.06.1955. Pursuant to such an application, the Settlement Commissioner/Settlement Officer has the duty to determine the amount of compensation payable in respect of such a claim. Displaced persons, who had abandoned agricultural land, are entitled to be compensated by equivalent agricultural land, the equivalence being determined in accordance with the classification of the land and its value. For the purposes of payment of such compensation/satisfaction of claims, the Central Government could acquire evacuee property declared as such under the 1950 Act. The valuation of property to be allotted can only be made by a Settlement

Commissioner. The determination of compensation payable is the duty of the Settlement Officers and Managing Officers are only entrusted with the duty of management and disposal of assets. A mechanism for redressal of grievances is also provided in the 1954 Act and in exercise of the powers conferred by the said provisions, a Chief Settlement Commissioner is entitled to call for the records, inter alia, of a Managing Officer, Settlement Officer and Settlement Commissioner. He also has a specific power to cancel an allotment obtained fraudulently.

13. The Displaced Persons (Compensation and Rehabilitation) Rules, 1955, (hereinafter referred to as 'the 1955 Rules') have been enacted under the 1954 Act. These Rules provide a detailed procedure for satisfaction of "verified claim". Specifically, Rules 5 and 10 provide for scrutiny of application accompanying "verified claim" and passing of an order thereupon by the Settlement Officer. Rule 11 provides for verification and valuation of the claim by the Settlement Commissioner. Rule 50 cast a duty upon the Settlement Commissioner to determine the valuation of the agricultural land to be allotted and Rule 52 provides that an allotment has to be made subject to ceiling of 30 standard acres.

14. The various questions framed earlier can be answered in the light of provisions of law referred to hereinabove.

Question 'A':-

15. Firstly, we shall examine, whether an application for satisfaction of a "verified claim" could have been filed in 1994? Section 4 of the 1954 Act is a complete answer to this question. According to this provision, the Central Government is entitled to issue

notifications upto 30.06.1955 calling for applications for payment of compensation from displaced persons holding a “verified claim”. Such a person is required to make an application within three months of the date of the notification.

16. The facts of this case show that application was filed by Harbans Lal Arora on 15.03.1994, which was obviously highly belated. Moreover, such an application could have been filed only by a person, who was a holder of a “verified claim”, which according to the definition means a person, whose claim made under the East Punjab Refugees (Registration of Land Claims) Act, 1948, had remained un-satisfied. Had this been the case Jeta Ram would not have remained quiet during his life time. This in itself suggests that the application made by Harbans Lal Arora lacked bonafide. Further, such an application was to be made to the Settlement Officer and was to be examined by the Settlement Commissioner, who, after an inquiry made in prescribed manner could determine the amount of compensation, if at all, payable. The application, if made by an heir of the displaced person, required additional documents to be filed alongwith it to enable the concerned official to make a determination regarding his status. The facts of this case, however, reveal that an application was directly made to the then Revenue Minister and on his instructions/directions, the Tehsildar (Sales)-cum-Managing Officer passed orders of additional allotment. The exercise of classification of land abandoned in West Pakistan, valuation thereof and valuation of land allotted in India was done by the said Managing Officer, whereas according to the 1954 Act, such power is

vested in the Settlement Commissioner. The various orders of allotment are thus, illegal having been passed by officers who were not vested with jurisdiction to do so.

17. The connected issue regarding transfer of allotment to Karnal Sale Unit and further to Gurgaon Sale Unit also requires to be addressed. The record reveals that the allotment of $13 \frac{3}{4}$ units in Karnal Sale Unit was based on the directions of the then Revenue Minister. The Revenue Minister is in no-way involved in the process of 'satisfaction' of claims of displaced persons therefore, he had no authority under the Act or Rules to direct a claim to be satisfied in a district, different from the one prescribed in respect of a particular category of displaced persons. It is a matter of common knowledge that displaced persons from specific districts from where they migrated were allotted to specific sale units created in different districts. Jeta Ram was compensated by way of allotment in District Bhiwani and there is no tangible reason on record to justify the transfer or his claim to Karnal/Panipat Sale Unit, even if, he was entitled to additional allotment and that too on the orders of the Revenue Minister. The record interestingly reveals that additional allotment of 5 standard acres 2 units made vide order dated 22.02.1995 (Annexure P-6) in Karnal/Panipat Sale Unit was further transferred to Faridabad/Gurgaon, even though, adequate land was available in Karnal Sale Unit for allotment.

18. The additional allotment in village Sihi, District Gurgaon, was made on the basis of a jamabandi, which was produced alongwith the revision petition filed by Harbans Lal Arora against allotment order dated

27.04.1994 (Annexure P-3). Learned State counsel, after inspecting the original record submits that these documents are illegible and are merely photocopies. No satisfactory reply has been given by the learned counsel representing Harbans Lal Arora for not producing the original/certified copies of record and why such record was not produced by Jeta Ram? Thus, it is obvious that records were apparently fabricated for the purpose of securing allotment of additional land and the then Tehsildar (Sales)-cum-Managing Officer at Chandigarh, was in collusion with Harbans Lal Arora to facilitate later to get enriched unlawfully at the expense of the State. Conspiracy is writ large because Harbans Lal Arora managed to obtain three separate additional allotments and possession consequent thereto, within a short span of one year.

19. Thus, it stands established on record that the claim of Jeta Ram stood satisfied during his life time. There was no “verified claim” of him left to be satisfied and the entire exercise initiated by his son through letter dated 15.03.1994 was with fraudulent intentions. Officials/officers passed allotment orders with a view to benefit Harbans Lal Arora, even though, they did not have the jurisdiction to do so under the law. Even the procedure prescribed by law was short-circuited so that instant gratification could be achieved.

20. Learned Financial Commissioner has neither adverted to these issues nor has he examined the legal provisions while passing the impugned order. The delay has been explained away by placing reliance upon a judgment of the Hon’ble Supreme Court of India, AIR 1976 SC 211, wherein it has been held that on the death of a claimant his rights

cannot evaporate or vanish. Reliance has also been placed upon 1969 PLR 472 and 1988(2) RLR 43, wherein it has been held that a claimant cannot be made to suffer on account of mistakes of the department. Rule 62 of the 1955 Rules has also been relied upon to conclude that in case there is a short-fall in allotment then additional land can be allotted. The judgment of the Hon'ble Supreme Court of India, judgments passed by this Court and the Rule relied upon by the learned Financial Commissioner are un-exceptionable. There is no gain-saying that in case of short-fall in allotment of land to a claimant, it is liable to be made good and merely because a claimant has died his rights cannot evaporate into thin-air. It is also true that a claimant cannot be made to suffer for the mistakes of the department. However, the question which arose for consideration was whether such a situation existed in the present case? We have already found that the claim of Jeta Ram had been satisfied in full and therefore, there was no question of any short-fall. We have no reason to doubt that the entire exercise of allotment of additional land was fraudulent in nature and in this back-ground it would be farcical to say that there was a mistake committed by the department while determining the claim of Jeta Ram. Learned Financial Commissioner has failed to take notice of the manner in which the claim for additional land was made. He has also not cared to take into consideration whether the allotment of additional land was made by officers vested with powers to do so. He has only glossed over the fact that the entitlement of Jeta Ram has been worked out differently at different points of time and thus, apparently, there was a mistake by the department. Thereafter, the entire

discussion in the impugned order is regarding the valuation of “Naklisthan” land, which issue would only arise in case there was in fact such land abandoned by Jeta Ram in West Pakistan. The record reveals that there was no legally admissible evidence to suggest that such land had in fact been abandoned in West Pakistan. The jamabandies produced by Harbans Lal Arora were admittedly produced for the first time in the year 1994 while challenging the order dated 27.04.1994 (Annexure P-3). The delay itself is suggestive of fabrication of record because the revenue record received at the time of partition of the country, if it contained such entries, would have definitely found mention in the order of allotment in favour of Jeta Ram. The impugned order is thus, patently perverse. It also suffers from an error apparent on the face of the record because legal provisions, which should have been taken into consideration at the first instance, have not been considered. The Financial Commissioner thus proceeded with the matter with a closed mind only to restore undue benefit to Harbans Lal Arora.

21. Thus, it is unequivocally held that Harbans Lal Arora, as heir of Jeta Ram, was not entitled to any additional allotment and his belated claim was totally false, fabricated and arose out of an ulterior motive.

Question ‘B’:-

22. It has been vehemently contended by learned counsel representing Harbans Lal Arora that the Chief Settlement Commissioner had no authority or jurisdiction to re-open the claim proceedings of the deceased-Jeta Ram. He submitted that it is not in dispute that Jeta Ram was a displaced person from West Pakistan and that he was entitled to

seek compensation for the land abandoned by him. Undisputedly, 52 acres 2 ¼ units had been allotted to him in District Bhiwani in the year 1952 and there is no dispute with regard to this land. The contention is that the Chief Settlement Commissioner became seized of the issue only because of order dated 26.02.1996 (Annexure P-8) and was acting as an Arbitral Tribunal to decide the issues referred to it by the High Court. In this view of the matter, the Chief Settlement Commissioner could not have travelled beyond the terms of reference settled by the High Court. Thus, it is submitted that the only jurisdiction vested with the Chief Settlement Commissioner was to decide whether the allotment in favour of Harbans Lal Arora in Gurgaon, was liable to be cancelled on the directions of the then Revenue Minister, Haryana, and whether the land of Gurgaon was evacuee property in respect of which the Rehabilitation Department could exercise ownership rights or else the alleged Dholidars/Bhondedars were entitled to retain the possession as owners.

23. The above submissions need to be examined in the back-drop that suo motu proceedings dated 18.05.1995 initiated by the Chief Settlement Commissioner in exercise of jurisdiction vested in him under Section 24 of the 1954 Act, had been challenged by Harbans Lal Arora and order dated 27.07.1995 by which the stay granted on 18.05.1995, was vacated by the same Chief Settlement Commissioner was challenged by the alleged Dholidars/Bhondedars. Both sets of writ petitions were disposed off by the High Court vide order dated 26.02.1996 and the High Court was aware that the orders passed by the Chief Settlement Commissioner, Haryana, were under challenge before it. However, since

the dispute had reached the High Court without merits having been gone into and without any finding by the Chief Settlement Commissioner, it was deemed appropriate that the issue be first gone into by the Chief Settlement Commissioner himself. Thus, while examining the perceived right of Harbans Lal Arora to obtain additional allotment in Gurgaon, the Chief Settlement Commissioner was duty bound to examine whether the original claim of Jeta Ram stood satisfied or not? Moreover, after remand by the High Court, the Chief Settlement Commissioner exercised the same jurisdiction under which the previous orders were passed, i.e., Section 24 of the 1954 Act. The said provision empowers him to call for the record of any proceedings under the 1954 Act, in which an order has been passed by a Settlement Officer, a Settlement Commissioner, a Managing Officer or a Managing Corporation, for satisfying himself regarding its legality or propriety. Therefore, the Chief Settlement Commissioner could even call for the record of the original order of allotment passed in favour of Jeta Ram. Learned counsel representing Harbans Lal Arora, has thus misconstrued and misunderstood the legal provisions relevant on the issue. Learned Financial Commissioner has also committed the same illegality while examining this issue. The back-ground, in which the matter came before the Chief Settlement Commissioner, has not been correctly appreciated. It is crystal-clear that the matter reached the High Court because orders were passed by the Chief Settlement Commissioner in exercise of jurisdiction under Section 24 of the 1954 Act and it is trite proposition that on remand of a matter,

the Authority continues to exercise the same jurisdiction in exercise of which the original orders were passed.

24. It is thus held that the Chief Settlement Commissioner had the power not only to re-open the case of additional allotment, but also to re-examine the matter of original allotment of Jeta Ram.

Question 'C':- Whether the alleged Dholidars/Bhondedars are entitled in law to retain the possession of land in dispute?

25. Both the authorities below have come to the conclusion that the alleged Dholidars/Bhondedars had no right or title in respect of the land in dispute. This finding has been reached on an examination of the inter-play of the provisions of the Punjab Village Common Lands (Regulation) Act, 1964 and the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952. Learned counsel representing the alleged Dholidars/Bhondedars submitted that their status is not in dispute. That being the position, on migration of the original Muslim owners to West Pakistan, the Dholidars/Bhondedars claimed to have become full owners of the land. It is his submission that the land in possession of a Dholidar/Bhondedar is by way of a gift and therefore, the Dholidar/Bhondedars are full owners on acceptance of the gift. Reliance has been placed upon a Division Bench judgment of this Court in **Dharam Vir Vs. Bahadur Singh, 2007(1) PLR 176.** In the cited case before the Division Bench, the matter reached because of a reference order, in which, it was noticed that there was a difference of opinion within the High Court regarding the alienability of 'dohli' tenure. After

noticing the various judgments reflecting the opposing views, the Division Bench, held as follows:-

“Answer to the Question Referred:-

(i) The ‘dohli’ tenure may be a rent-free grant for the benefit of a temple, mosque or shrine or to a person for a religious purpose and the grant continues till the holder carries out the duties of his office and can be terminated on failure to carry out the said duties as held in Sewa Ram’s case (supra). ILR 2 Lahore 313 AIR 1922 Lahore 326 relied.

(ii) ‘Dohlidar’ may be a landowner qua his tenant in the situation mentioned in Baba Badri Dass’s case (supra). 1982(1) ILR 491 relied.

(iii) ‘Dohlidar’ may be an owner if ‘dohli’ is in the nature of gift and at the time of creating ‘dohli’, no condition for use of the dohli land for the benefit of a temple, mosque or shrine or other religious purpose is imposed, as noticed in judgments of this Court in Baba Dass case, 1982(1) ILR 491 and Dhani Ram’s case (supra) (1984 PLJ 234).

(iv) If a ‘dohli’ is held to be a grant for a religious purpose, its management, alienability and succession will not be governed by law of management, alienability or succession of an individual’s property but by succession, management or alienation of a religious property.”

26. The cited decision makes it clear that whether a Dholidar becomes an owner of the land in his possession, would depend upon the terms of the grant, i.e., ‘dohli’. The said terms would also dictate whether the ownership would revert to the grantor of the tenure, in case the purpose for which it was granted was dis-continued. Thus, the crucial issue is the terms subject to which the alleged Dholidars/Bhondedars were in possession of the land in dispute. Moreover, neither of the authorities below has returned a finding regarding the nature of the land as reflected in the revenue record, i.e., whether it is Shamlat Deh or not. In this view

of the matter, we are unable to determine the claimed rights of the alleged Dholidars/Bhondedars. Nevertheless, it is not in dispute that the said persons had been in possession at least since before the partition of the country.

27. In view of the above circumstances, we set aside the findings of the authorities below regarding the rights of the alleged Dholidars/Bhondedars, leaving it open to them to agitate their title dispute with the State before a proper forum and in accordance with law. We are informed that the land has since been acquired and therefore, the question now is only regarding entitlement to compensation. In case some part remains un-acquired, status quo with regard to physical possession, alienation and construction shall be maintained till the determination of dispute by the appropriate forum.

Question 'D':- Whether criminal liability is attached to the actions of various officials involved in the allotment of additional land to Jeta Ram through his son, namely, Harbans Lal Arora?

28. This question need not detain us for long. Detailed reasons have been given by us for concluding that the allotment of additional land came about on account of extreme on reasons and some sort of quid pro quo before Harbans Lal Arora and the officials of the Rehabilitation Department including the then Chief Settlement Commissioner, namely, Sh. M.P. Gupta. Forged documents were produced to obtain additional land with the intention of de-frauding the State. Therefore, prima-facie, criminal liability attaches itself to the actions of the said officials.

29. We hasten to add that the findings regarding criminality returned by us, will have no bearing on the merits of the trial arising out of FIR No.8 dated 16.05.2000 and the learned trial Court would return its own findings based upon the evidence brought before it.

30. Resultantly, the writ petition filed by the State is allowed and order dated 30.08.2000, passed by the Financial Commissioner, is set aside. The order passed by the Chief Settlement Commissioner, Haryana, dated 23.12.1997, is upheld. The writ petitions filed by the alleged Dholdars/Bhondedars, are disposed of, leaving it open to them to get their title decided in a Court of competent jurisdiction.

31. So far as, the CRM-M-23766-2001 (O&M) is concerned, suffice it to say that the final relief sought in the petition was stay of filing of challan and further proceedings thereupon during the pendency of CWP-8132-2001. The record of the case reveals that a Division Bench of this Court had granted stay vide order dated 09.05.2002. The stay order has enured till date. Now, that CWP-8132-2001 stands decided, the CRM-M-23766-2001 (O&M) has been therefore, rendered infructuous. Disposed of accordingly.

(SUDHIR MITTAL)
JUDGE

(SURYA KANT)
JUDGE

November 14, 2017

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No