

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

Civil Writ Petition No.313 of 1997
Date of Decision: February 27, 2017

Smt.Harnam Kaur

...Petitioner

Versus

Financial Commissioner (Revenue), Punjab, Chandigarh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr.BPS Virk, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl.A.G.Punjab,
for the State.

Mr.Viney Saini, Advocate for
Mr.G.S.Nagra, Advocate,
for respondent Nos.4 & 5.

AMIT RAWAL, J. (Oral)

The petitioner is the daughter of Smt.Lachhmi Devi widow of Nihal Singh, who was a displaced person and in lieu of the land left in Pakistan, was allotted land in Village Jaswantpura, Tehsil Sunam, District Sangrur to the extent of 5 Standard Acres 1-3/4 units. The aforementioned allotment was cancelled and finally was allotted land in Village Sehajpur, Tehsil Samana on 26.1.1956. After 32 years, the Chief Settlement Commissioner took suo-motu cognizance on somebody's motion that Lachhmi Devi was none else but widow of Sewa Dass, who is stated to have sold the property in favour of respondent Nos.4 and 5.

Mr.Kanwaljit Singh, learned Senior Counsel assisted by

Mr.BPS Virk, representing the petitioner submits that the suo-motu reference in view of the law laid down by this Court in **Chandgi Ram Versus State of Haryana and others**, 2013 (4) R.C.R. (Civil) 1050, **Loku Ram Versus State of Haryana**, 2000 (1) R.C.R. (Civil) 141 and as well as in **Latoor Singh & others Versus State of Haryana & another**, 2016 (4) RCR (Civil) 16, after more than eleven years, is held to be not valid exercise of powers. Respondent Nos.4 and 5 have not been able to, *prima-facie*, establish the alleged sale by Lachhmi Devi in their favour in the absence of any documents or the copy of the sale deed, thus, the allotment cancelled in view of the suo-motu reference, i.e., 26.12.1988 and affirmed by the Financial Commissioner, though after remand, is totally erroneous and lacking jurisdiction.

Per contra, Mr.Yatinder Sharma, learned Addl.A.G.Punjab and Mr.Viney Saini, Advocate for Mr.G.S.Nagra, Advocate, for respondent Nos.4 & 5 submit that there is no denial to the factum of sale by Lachhmi Devi in favour of respondent Nos.4 and 5 and this fact is also evident from the written statement filed on behalf of the State. They further submit that the matter requires re-probe and as such, this Court, vide order dated 8.9.2016, called upon the State to place on record the documents and the reply given by way of short affidavit dated 21.12.2016 reveals that the record is not available and on 19.1.2016, a DDR in that respect has been lodged with the Community Police Sanjh Kendar of Police Station, Samana.

I have heard the learned counsel for the parties and appraised the paper book.

The law with regard to the suo-motu cognizance is no longer *res integra* in view of the law law down in **Chandgi Ram**, **Latoor Singh**

relying upon **Loku Ram (supra)**. It has to be within a reasonable time. The allotment challenged in 1988 is after 32 years. Even the Chief Settlement Commissioner could not have taken the suo-motu cognizance. The same has been held to be bad in law. Even the respondent Nos.4 and 5 have not been able to, *prima-facie*, establish the alleged sale in their favour in the absence of the sale deed. Even if they still have documents, they would be at liberty to seek vindication in accordance with law, but not in the present writ petition.

In view of the foregoing reasons, the orders under challenge are not sustainable, lacking jurisdiction, erroneous and arbitrary and, therefore, set-aside.

Writ petition stands allowed.

February 27, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No