

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

**CWP No.18291 of 2010
Date of decision:14.03.2017**

Pritam Singh and others

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H.S.Dhandi, Advocate, for the petitioners.

Mr. Yatinder Sharma, Addl.A.G.Punjab.

AMIT RAWAL J. (Oral)

The petitioners are aggrieved of the impugned orders dated 22.06.2009 (Annexure P-6) and 16.03.2010 (Annexure P-8) rendered by the Special Secretary Revenue, Punjab/Claims Commissioner and the Financial Commissioner Revenue, Punjab Chandigarh, respectively, dismissing the claim.

The contention of Mr.H.S.Dhandi, learned counsel appearing on behalf of the petitioners is that father of the petitioners, Partap Singh in the year 1953 was allotted land, in lieu of the land left by him in Pakistan. The said allotment was made under Section 12 of the then Displaced Persons (Compensation and Rehabilitation) Act, 1953. The total land allotted was 19-9 ½ standard acres but only 12.5 standard acres land was allotted by the Rehabilitation Department, i.e., 7.4 standard acres less than the total land allotted to Partap Singh. However, on 05.07.1962, in lieu of the aforementioned deficiency of land, i.e., 7.4 standard acres, only land

measuring 4-10 ½ standard acres was allotted to Partap Singh, thus, deficiency of 2-9 ½ standard acres of land was still there. The matter kept on pending but no action was taken.

However, the State of Punjab, vide notification dated 01.04.2009 by promulgation of new Act, i.e., The Punjab Package Deal Properties (Disposal) Amendment Act, 2009, (Annexure P-4), whereby, as per the provisions of Section 4-B(1), displaced persons to whom property was not allotted or possession of the allotted property was not given, could apply within a period of 90 days. In view of the aforementioned Act, an application was submitted but the same was rejected vide Annexures P-6 and P-10.

He has also drawn the attention of this Court to paragraphs 3 and 4 of the written statement dated 10.03.2011 which read as under:-

3. *That the contents of para 3 of the writ petition are admitted that out of the deficient land of 7-4 standard acres land measuring 4-10 ½ standard acres was allotted to Partap Singh on 5.7.1962 being behind a deficiency of 2-9 ½ standard acres.*
4. *That in reply to the contents of para 4 it is submitted that the petitioners himself has stated that he applied for allotment of remaining 2-9 ½ standard acres land on 25.8.2002. He has not given any proof that they applied for the remaining land before 31.12.1963 the land date prescribed for the purpose under the Section 67-A of the Displaced Persons*

(Compensation and Rehabilitation) Act, 1954.”

to contend the stand of the State had been that the application was not submitted as per the provisions of Section 67-A of 1954 Act as the cut off date was 31.12.1963 but the deficiency of land 2 -9 ½ standard acres was admitted. However, the State made an attempt to portray that claim of the petitioners stands vindicated, in view of Annexure R-4/T as land measuring 19 standard acres 9 units has been allotted to the petitioners but with miscellaneous application bearing No.3645 of 2015, Annexure P-9 reflect khasra numbers 1853/1137, 1854/1137, 1161, 1162, 1163/2, 1190 and 1191 and few others which are common and allotted to Mihaan Singh son of Gurdit Singh son of Hira Singh, who had been given 14-9 ½ standard acres of land, therefore, the stand of the State having satisfied the petitioners' claim is not sufficing the principle of reasonability, much less equity, in view of the candid admission of the deficiency of area measuring 2-9 ½ standard acres, the State cannot play hide and seek with the Court by giving distorted facts and figures in order to thwart the claim of the petitioners and thus, urges for setting aside the impugned orders.

Mr.Yatinder Sharma, learned Assistant Advocate General Punjab appearing on behalf of the State submits that no doubt, Annexure R-4/T reveals allotment of land measuring 19 standard acres 9 units but Annexure P-5 has not been refuted by the State regarding the duplicacy of khasra numbers. In fact, the additional written statement/affidavit has not been rebutted by way of rejoinder except by an application which is not correct procedure in law and thus, urges this Court for dismissal of the

present writ petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that the matter requires redetermination, particularly in view of the duplicacy of khasra numbers *vis-a-vis* Annexure P-9 and Annexure R-4/T, thus, the alleged tall claim of the respondents having satisfied the deficiency of area *vis-a-vis* petitioners, i.e., successors-in-interest is not vindicated. Paragraphs 3 and 4 of the written statement dated 10.03.2011 reproduced above leave no manner of doubt that there is admission of allotment of land measuring 2- 9 ½ standard acres. On comparison of parchi allotment, Annexure R-4 and Annexure P-9, there is duplicacy of khasra numbers. All these factors are required to be re-examined/re-visited.

Resultantly, the impugned orders are set aside. The matter is remitted back to the Financial Commissioner Revenue, Punjab Chandigarh to consider the aforementioned aspect to satisfy the claim of the petitioners in a most reasonable and pragmatic manner as numerous years have been elapsed in this process in order to avoid further litigation.

Accordingly, the writ petition stands allowed.

The parties through their counsel are directed to appear before the Financial Commissioner Revenue, Punjab Chandigarh on 07.04.2017.

March 14, 2017
savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No