

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

CWP No.18408 of 2013

Date of decision : 16.05.2017

Mohd. Ismail and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Anil Kumar Garg, Advocate for petitioner(s).

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

Mr. Jai Bhagwan, Advocate for respondent No.9.

AMIT RAWAL, J. (Oral)

The petitioners have approached this Court seeking following relief:-

“For issuance of writ, order or direction especially in the nature of mandamus directing the respondents to allot the land to the petitioners in view of the order dated 09.02.1976 (Annexure P-1) passed by respondent No.4 and order dated 09.02.1979 (Annexure P-3) passed by respondent No.2.”

The grievance of the petitioners in the present writ petition is that in ejectment petition initiated by landowners against Sadar Din tenant, he was ordered to be evicted subject to the condition that he would be allotted alternative land as he had been tenant prior to the commencement of Pepsu Tenancy and Agricultural Lands Act, 1955. The operative part of the judgment dated 09.02.1979 (Annexure P-3) reads as under:-

“4. I have heard arguments advanced by both sides and

seen the record. Ram Nath etc. being admittedly small landowners are competent to eject Sadar Din. According to the record, Sadar Din has been a tenant intermittently since prior to the commencement of the Pepsu Tenancy and Agricultural Lands Act, 1955. This interruption appears to be due to the fact that the land, being flood prone, was beyond cultivation from time to time. He thus deserves to be accommodated on some other land. In this view, I accept the recommendation of the learned Additional Commissioner with a little modification that Sadar Din shall not be evicted till he is allotted alternate land. Announced.”

He further submits that petitioners had been approaching respondent(s) since 1981 onwards but no action has been taken by the Deputy Commissioner or the Prescribed Authority. The petitioners are successor-in-interest of Sadar Din.

Stand of the State in the written statement is that Sadar Din had surrendered/delivered the possession of land measuring 7 kanals 13 marlas i.e. 1/3rd share out of joint land measuring 22 kanals 19 marlas in favour of Shanti Devi by filing an application before the Tehsildar Malerkotla and roznamcha for the year 1981-82 and Rapat bearing Nos.534 and 535 were duly entered by Sadar Din, thus, right of Sadar Din is no longer in dispute. This fact has been rebutted by learned counsel for the petitioners.

He submits that petitioners have a private arrangement between the successor-in-interest of the landlord i.e. wife of the Ram Nath and LRs of landlord. Shanti Devi had surrendered the possession by giving her right for allotment. Even handing over the possession would not dis-entitle the State to issue the allotment letter.

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

The order of the eviction as extracted above is no longer in dispute. The stand of the State, as noticed above is not correct. It was internal arrangement between landlord and tenants. The right of the allotment of 5 standard acres cannot be taken away in this manner. State has not been fair enough to come out with the positive reply as to why the allotment has not been issued despite the fact that number of representations pending adjudication from 1981.

In my view, the petitioners are entitled to allotment. Resultantly, writ petition is disposed of with a direction that the right of allotment as tenant qua 5 standard acres reflected in the order of eviction still subsist, even if the Sadar Din had during his lifetime surrendered/delivered the possession in favour of Shanti Devi, it being question of fact which shall be undertaken while entertaining the case of petitioner.

Let this exercise by the State within a period of four months from the date of receipt of certified copy of the order.

Writ petition stands disposed of in the aforementioned direction.

16.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No