

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

**CWP No.21710 of 2013(O&M)
Date of decision :20th February, 2017**

Suresh Kumar and others

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S.Bedi, Advocate for the petitioners.

Mr.Sandeep Singh Mann, Senior DAG, Haryana.

Mr.Akshay Bhan, Sr. Advocate with
Mr. Amandeep Singh Talwar, Advocate
for respondents No. 6 to 8.

Mr.Ashish Aggarwal, Sr.Advocate with
Mr.Govind Chauhan, Advocate
for respondents No. 9 to 12.

AMIT RAWAL, J.

Petitioners, who are three in number, have knocked the doors of this Court seeking issuance of a writ in the nature of certiorari for quashing of the following impugned orders:-

- i. Order dated 2.9.2013 rendered by Financial Commissioner, Revenue, Haryana(Annexure P-15)
- ii. Order dated 3.8.1988 (Annexure P-12) rendered by Settlement Officer(Sales)-cum- Assistant Settlement Commissioner, Haryana
- iii. Order dated 10.8.1988 (Annexure P-13) passed by Assistant Registrar-cum-Managing Officer-cum-Tehsildar(Sales), Sonapat,
- iv. Sanad dated 11.6.1996 (Annexure P-14), Rapat Roznamcha(Annexure P-19) , and lastly
- v. mutation (Annexure P-20)

The further prayer is for seeking stay of the operation of the impugned order dated 2.9.2013 (Annexure P-15).

Mr. B.S.Bedi learned counsel appearing on behalf of the petitioners submits that the petitioners are holding and cultivating possession of the land measuring 55 kanals 4 marlas comprised in Killas Nos. 92//5/2/1, 6/2, 15/2, 16/1, 25/2, 93//10/2, 11, 20, 21, 94//1/1, 95//5/2, situated within the revenue estate of village Panchhi Gujran, Tehsil Ganaur, District Sonapat since 1978. In order to reflect the aforementioned fact, the reliance has been placed on Jamabandi for the year 2009-2010(Annexure P-1). On 18.1.2011 the State of Haryana promulgated rules namely the Haryana Evacuee Properties (Management and Disposal) Rules, 2011 by exercising powers under sub-section (1) of Section 19 of the Haryana Evacuee Properties(Management and Disposal) Act, 2008 (hereinafter referred to as the Act No. 7 of 2008) and has drawn the attention of this Court to Section 2(g) muchless the provisions of sub-section (2) of Section 3 of the Rules 2011 which reads as under:-

“3. (1)

(2) *On receipt of the application the tehsildar shall examine the application after verifying the eligibility from the entries in the revenue record, the facts that evacuee land/property which was in occupation/possession as per revenue record as on the 15th August, 1947 or earlier and is in continuous cultivation possession thereof by the applicant as on the date of examination of the case, he shall make an order for allotment of land:*

Provided that before making an order, he shall ensure that the land involved is a evacuee property and the claim is covered under the provisions of Act and rules made thereunder:

Provided further that the Tehsildar shall ignore stray entries made in the revenue record as per instructions issued by the

department :

Provided further that the Tehsildar shall provide an opportunity of being heard to everyone concerned if there is a dispute regarding possession, or someone raises an objection against the claim made by the applicant, which the tehsildar thinks needs to be decided for proper disposal of application."

In this regard the petitioners on 08.03.2011 submitted an application (Annexure P-3) and the said application was dismissed vide order dated 17.10.2011(Annexure P-4). The aforementioned order was assailed by filing CWP No.8861 of 2012 but the same was disposed of directing the petitioners to avail remedy of appeal. The appeal before the Commissioner is stated to be filed and the same is pending adjudication.

One Chailu Ram, predecessor-in-interest of private respondents No. 6 to 8, vide allotment dated 08.02.1950, was allotted land in the West Pakistan after the partition in 1950 under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as the 1954 Act). The successors-in-interest of Chailu Ram moved an application (Annexure P-10) on 11.2.1988 i.e. after 38 years for additional allotment of the land, in essence challenged the imposition of the cut by relying upon the fact that Chailu Ram was granted a gallantry award in the first World War. The aforementioned application was rejected by the Assistant Registrar vide order dated 12.7.1988 (Annexure P-11) being time barred. The appeal was filed before the Sales Officer in fact the remedy to be availed was before the Commissioner. The same was allowed vide order dated 3.8.1988 (Annexure P-12). In essence the order of the Sales Officer was without jurisdiction. No doubt the order aforementioned, according to him, attained finality but on 10.8.1988 (Annexure P-13) the Assistant Registrar allotted more land.

The Sanad Taqseem in the name of dead person was also issued on

11.6.1996 (Annexure P-14) who was alive. In fact, respondents No. 6 to 8 had not informed the authorities regarding the factum of death of Chailu Ram as to whether he died in Pakistan or in India. However, on 28.2.2002 the Chief Settlement Commissioner invoked suo motu powers as envisaged under Section 24 i.e. power of revision and found that the additional allotment in favour of private respondents was bad in law. The said reference was referred to the Financial Commissioner and the Financial Commissioner vide impugned order dated 2.9.2013 (Annexure P-15) erroneously rejected the reference and held the allotment to be valid in law. In support of his contention he has relied upon the provisions of Rule 67-A of the Displaced Persons (Compensation and Rehabilitation) Rules 1955 to contend that the cut off date for moving the application was 31.12.1963. In essence the application of successors-in-interest of Chailu Ram filed in the year 1988 was not maintainable. Even their names were also not verified and in this regard has relied upon a single bench decision of this Court rendered in **Sat Parkash and another v. Union of India and others**, 2004(1) RCR(Civil) 95 wherein it was held as under:-

“16. The 1954 Act was enacted by the Parliament to provide for payment of compensation and rehabilitation grant to displaced persons and for matters connected therewith. [Sections 2\(e\), 4](#) of the 1954 Act and Rule 67-A of the 1955 Rules, which have bearing on this case, read as under:-

"Sections 2(e) and 4 of the 1954 Act.

2(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 persons in West Pakistan;

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4. Application for payment of compensation.- (1) The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette, require all displaced persons having verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.

(2) Every displaced person who, by a notification issued under Sub-section (1) is required to make an application for the payment of compensation shall make such application in the prescribed form to the Settlement Officer having jurisdiction, within three months of the date of the notification:

Provided that the Settlement Officer may entertain any such application after the expiry of the said period of three months, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(3) An application for the payment of compensation under this section shall contain the following particulars, namely:-

(a) the name and address of the applicant;

(b) the amount of the verified claim;

(c) the encumbrances, if any, on the property to which the verified claim relates;

(d) the form in which the applicant desires to receive compensation;

(e) the amount, if any, of the public dues recoverable from the applicant;

(f) the property, if any, allotted or leased to the applicant by the Central Government or a State Government or by the Custodian;

(g) such other particulars as may be prescribed.

(4) Any notification issued by the Central Government before the commencement of this Act requiring displaced persons of any class or description to make applications for the payment of compensation, shall be deemed to have been issued under this section and all applications for the compensation made in pursuance of any such notification shall be deemed to have been made under this section and any proceeding in relation to any such application pending at the commencement of this Act shall be disposed of in accordance with the provisions of this Act:

Provided that a displaced person who made an application for payment of compensation before the commencement of this Act may, within one month of such commencement, intimate in writing to the officer or authority to whom the application was made or the successor-in-officer of any such officer or authority, the form in which he desires to receive the compensation.

Rule 67-A of the 1955 Rules. Compensation to displaced persons from West Punjab, etc. in respect of agricultural land- Notwithstanding anything contained in this Chapter a displaced person from West Punjab or a displaced person who was originally domiciled in the undivided Punjab, but who before the partition of India had settled in North West Frontier Province, Baluchistan, Bahawalpur or Sind, whose verified claim in respect of agriculture land has not been satisfied or has been satisfied only partially by the allotment of evacuee land under the relevant notification specified in [Section 10](#) of the Act shall not be paid compensation in any form other than the transfer of acquired evacuee agricultural land and rural houses and sites in the State of Punjab or Patiala and East Punjab States Union in accordance with the scales specified in the quasi-permanent allotment scheme operating in those States:

Provided that the displaced person applies for payment of compensation in such form not later than the 31st day of December, 1963:

Provided further that if any person has been allotted land in a State other than Punjab and his land claim has not been satisfied fully, he may for the remaining claim either be allotted land due to him in that State or issued a Statement of Account which he may utilise for purchase of property forming part of the Compensation pool or for adjustment of public dues."

18. A reading of the provisions reproduced above shows that the 1948 Act provides for lodging of claims by refugees land holders, their registration and investigation by the designated authority. The manner and mode of submission of claim applications has been prescribed under Rule 3 of the 1948 Rules. In the cases of a minor, application for claim can be submitted by his next friend or guardian. [Section 2\(e\)](#) of the

1954 Act talks of verified claim which includes claim registered under the 1948 Act. Rule 67-A which was inserted vide notification dated 26th October, 1956 contains a non obstante clause and provides for satisfaction of the claim in respect of the agricultural land. First proviso to this rule which was added by notification dated 24th September, 1963 postulates filing of application by the displaced persons latest by 31st December, 1963. These provisions show that a displaced person can claim compensation only on the basis of the verified claim. In other words, if a person does not hold a verified claim he cannot be granted compensation.

19. In Hari Chand's case (*supra*), a Division Bench rejected the prayer made by the appellant-petitioner for directing the respondents to allot land to him being a displaced person. While confirming the order of the Single Bench which had dismissed the writ petition by the appellant, the Division Bench observed as under:-

"[This Act](#) provides for the lodging of the claims by the refugee landholders, their registration by the Land Claims Officer and investigation there into by the authority. [Section 4](#) of the said Act provides that a refugee may submit to the Registering Officer on the prescribed form duly supported by an affidavit an application for the registration of claim in respect of his land abandoned by him. Detailed rules have been framed under the Act providing for the manner and the mode of submission of such applications. Rules 2 and 3 of the said Rules provide that the claim applications shall be made in the form given in Appendix 'A' thereto and further that such claim applications shall be duly presented to the Registering Officer. It was further provided that in case of a minor, application for claims shall be submitted in the aforesaid manner by his next friend or his guardian. Significantly, the appellant did not at any stage move under the above said provisions to get his claim duly registered and verified. It is conceded that instead of complying with the statutory requirements of the above-said provisions, he merely approached the Managing Officer who in the context of the fact that he did not possess any verified claim refused him any relief. This order was rightly upheld by the higher authorities. It is significant to note that under the Displaced Persons (Compensation and [Rehabilitation](#)) Act, 1954, the jurisdiction to grant compensation by the authorities thereunder arises qua displaced persons who are verified claimants. In the absence of this pre-requisite qualification the appellant was thus patently ineligible to claim compensation under the provisions of the 1954 Act."

20. A similar view was expressed in Shiv Devi v. Central Government, C.W.P. No. 1239 of 1972, decided on 15th July, 1973. In that case, a Division Bench held that a displaced person, who comes forward for obtaining allotment in lieu of land abandoned in Pakistan must fulfil two requirements.

Firstly, he should hold a verified claim and secondly, he should have made an application for allotment to satisfy wholly or partially unsatisfied claim before 31st December, 1963 as envisaged under Rule 67-A of the Rules and if either of the two conditions is not satisfied, then he/she cannot claim allotment of land in lieu of abandoned land in Pakistan.

24. In my opinion, the orders passed in Dalip Singh Naik's case (supra) and Gurin-ditta 's' case (supra) cannot be made basis for granting relief to the petitioners because the view expressed by the learned Single Judges on the interpretation of the provisions of the 1948 and 1954 Acts runs contrary to the one expressed by the Division Bench in Shiv Devi's case (supra) and Hari Chand's case (supra) and in view of the law laid down by the Division Benches, it must be held that the existence of a verified claim and submission of application by the claimant before the appointed date i.e. 31st December, 1963 constitutes a condition precedent to the allotment of land to the displaced person.

26. The plea of the petitioners that allotment of land in their favour should be treated as the one made under Rule 3-A of the 1976 Rules sounds attractive, but lacks merit. That rule postulates allotment of rural land to unsatisfied displaced land holders. The use of expression 'unsatisfied displaced persons' clearly implies that a persons seeking allotment of land as displaced person is eligible to such allotment and has not been able to get allotment under the relevant provisions of law including the 1954 Act. Therefore, the entitlement of a displaced person who seeks allotment land has to be determined with reference to the provisions of the 1948 and 1954 Acts which clearly postulate existence of a verified claim. Thus, the petitioners, who did not hold a verified claim at any stage were not entitled to allotment of land under Rule 3-A of the 1976 Rules.

27. The reliance by the petitioners on the policy contained in letter dated 7th April, 1976 is clearly misconceived. That policy envisaged allotment of land to the persons, who had not filed 'mutalba land claim' upto 31st December, 1963, but whose applications and cases were of prior dates and remained pending due to some reasons. Clause (2) of letter dated 7th April, 1976 made it clear that where the application had not been filed before 31st December, 1963, the claim case was to consigned to the records. Clause (3) did give power to the Government to make departure in exceptional cases, but in my opinion, the same cannot be relied upon for sustaining the allotment made in favour of the petitioners because the administrative decision taken by the Government did not have the effect of amending Rule 67-A of the 1955 Rules under which 31st December, 1963 was specified as the cut off date for filing applications for allotment of land.

30. The objection raised by the petitioners to the suo motu action initiated under Section 24 of the 1954 Act was overruled by respondent No. 4 by placing reliance on the judgment of the Supreme Court in Om Parkash and Ors. v. Union of India and others, A.I.R. 1971 S.C. 771 and two judgments of this Court in Bal Krishan Mukhi v. Commissioner, Revenue, Haryana State and Anr., 1976 P.L.J. 443 and Labhu Ram (Dead) represented by his L Rs. v. Chief Settlement Commissioner, Punjab and Ors., 1980 Rev.L.R. 392. In the case of Om Parkash, the Supreme Court interpreted Section 24 of the 1954 Act and held that even where the allotment is not vitiated by any fraud or false representation or concealment of any material fact, the Chief Settlement Commissioner can exercise revisional power under Section 24.”

The factum of filing of the suit has been disclosed at page 61 of the paper book seeking following relief of declaration with consequential relief of injunction, following relief, has been sought:-

“ It is, therefore, prayed that a decree for declaration to the effect that the mutation bearing No. 5610 dated 01.08.2013 in favour of defendants No. 6 to 8 in respect of the suit property as detailed in para No. 1 of the plaint is wrong, illegal, invalid and further more the allotment which have been wrongly made in the name of the defendants No. 6 to 8 is also wrong, illegal, invalid and the same are void ab-initio and the same are liable to be set-aside on the grounds mentioned above in the plaint.

It is, further prayed that a decree for permanent injunction restraining the defendants No. 6 to 8 from selling/alienating/mortgaging/transferring the suit property as detailed in para No. 1 of the plaint forcibly and illegally on the basis of the wrong and illegal allotment and mutation No. 5610 dated 01.08.2013 in their names and also be restrained from creating charge over the suit property forcibly and illegally on the grounds mentioned above in the plaint, may kindly be passed in favour of the plaintiffs and against the defendants, for all times, in the interest of justice.”

In essence the entitlement of the allottees was only 141 kanals 40 marlas but in the order of allotment they have been allotted 407 kanals 14 marlas. The petitioners are in possession of the land and which fact is evident from the Rappat Roznamcha dated 31.7.2013 (Annexure P-19). The possession alleged to have been given to the allottees is only symbolic. In

this regard there is already a judgement rendered by the Civil Judge in a Civil Suit No. 361 of 2010 instituted on 12.11.2010 whereby the respondents therein i.e. Satbir Singh, Mahboob, Gayur Ali, Riyaz sons of Maksood Ali, who are not parties to the present lis, by way of judgment and decree dated 7.1.2015 have been directed not to interfere in their peaceful possession in due course of law. The suit aforementioned regarding declaration was instituted on 2.8.2013 whereas the order of reference is dated 2.9.2013 which cannot be assailed in the civil court thus remedy, if any, would be only under Article 226 of the Constitution of India. He further relied upon clause 25 of Chapter (iii) of the Land Settlement Manual to contend that the great cuts apply to all the allotments made in East Punjab and Pepsu with one solitary exception in favour of those holding land in West Punjab in virtue of gallantry award for World War II, therefore, they are not entitled for allotment. The petitioners have a direct interest in the properties much less thus its locus standi cannot be disputed/challenged as the land allotted to the private respondents is in possession of the petitioners and the powers of suo motu has already been pondered upon by the Hon'ble Supreme Court in **Om Parkash v. Union of India**, AIR 1971 SC 771. Thus, the respondents cannot be permitted to urge and argue regarding the jurisdiction invoked by the Chief Settlement Commissioner and regarding adjudication of powers under Section 24 of the 1954 Act. The application of the respondents was highly belated, as it was submitted beyond the cut off date, thus, the allotment of the land cannot be decided inasmuch as until and unless the private respondents and respondents No. 9 to 12, the subsequent vendees acquired right and interest in the property vide sale deeds dated 4.9.2013 and 6.9.2013. No doubt the suit is pending adjudication and urged this Court to

allow the present petition.

Per contra, Mr. Ashish Aggarwal, learned senior counsel appearing on behalf of respondents No. 9 to 12 assisted by Mr. Govind Chauhan and Mr. Akshy Bhan, learned senior counsel appearing on behalf of respondents No. 6 to 8 assisted by Mr. Amandeep Singh Talwar, have jointly argued and raised preliminary objection regarding the maintainability of the writ petition to contend that the petitioners cannot be permitted to avail two parallel remedies. In essence they have only challenged the allotment in favour of respondents No. 6 to 8 and cannot be permitted to assail sale in the present writ petition. At best the order of Financial Commissioner dated 2.9.2013 could have been assailed by seeking amendment in pending suit. On merits, they submitted that the petitioners have no locus standi on the premise that the father of petitioner Asa Nand was lessee of Ominder Hari son of Darshan Singh. The copy of lease deed is dated 30.10.1997 (Annexure R6/3). The Jamabandies of the year 1979-80 till 1989-90 i.e. Annexure R-6/1 page 238 and 241 reflect the status of the petitioners as lessees. However, for the reasons best known, the Revenue Authorities in the Jamabandi for the year 1990 reflect their possession as Gair Marusi. Darshan Singh had already applied for allotment of land prior to the promulgation of the 2011 Rules culled out as Act of 2008 and same was rejected vide order dated 5.7.1993. The revision filed by Darshan Singh was also dismissed vide order dated 30.6.1999 by the Commissioner but, aforementioned order was assailed by Darshan Singh in CWP No. 12474 of 1999 and possession of Darshan Singh vide order dated 13.9.1999 was stayed. However, on an application moved by respondents No. 6 to 8 the aforementioned order on 13.3.2001 had been vacated which reads as under:-

“ *Heard. Admitted.*

Mr.Saini, learned counsel appearing for respondent Nos. 21 and 22 points out that the petitioner had not challenged the order by which 5 standard acres and 8 units of land was declared excess with the allottees. That being so, the land has been allotted to the respondents and they are entitled to possession.

After hearing the learned counsel for the parties, we find that the interim order dated September 13, 1999 should be vacated. Ordered accordingly. However, this shall be subject to the final decision of the writ petition.”

In essence Darshan Singh had unverified claim being the lessor. In fact, the status of the petitioners is nothing but lessee holding over. Para 25 of the Land Settlement Manual relied and extracted in the writ petition has been held to be not statutory in nature in view of the ratio descendi culled by a Division Bench of this Court in **Dharam Vir v. Bahadur Singh and another** 2007(2) RCR(Civil) 217 holding that before the promulgation of 2011 Rules various instructions or press notes issued by the Government of State of Haryana for the purpose of enforcement have been, by Division Bench of this Court in **Dalmer Singh v. State of Haryana and another** rendered in CWP No. 2272 of 2003 decided on 22.11.2010, held to be not statutory.

As regards the gallantry award he submits that the Financial Commissioner while entertaining the reference has extensively held the settlement rules would not have any force of law and gallantry award would be an award de hors of the fact whether it has been given for the act of gallantry performance either in World War I or World War II. Therefore, the successors- in- interest was entitled to the exception clause. In essence the cut was not required to be imposed. In essence the allotment to the extent of 18 standard acres was less. Suo motu powers of revision have

been discussed by Division Bench of this Court in **Latoor Singh and others v. State of Haryana and another**, 2016(4) RCR(civil) 16 relying upon various judgements rendered by the Hon'ble Supreme Court to contend that there has to be a reasonable limit in invoking the suo motu powers. The suo motu powers invoked in 2002 were highly belated as the allotment came to be filed way back in the year 1988. In essence the power exercised was after 14 years. Emphasis on paras 9 to 12 of the judgment in Latoor Singh's case(supra) has been laid. The Financial Commissioner has extensively taken into consideration all the points. Learned counsel has also drawn the attention of this Court to Annexure R6/2, the copy of Rappat dated 31.7.2013 i.e. Annexure P-19 which reflects the handing over of the possession and the injunction in the suit challenging the allotment had also been declined and the appeal under Order 43 is stated to be pending. All these lead to the irresistible conclusion that the claim of the petitioners cannot be entertained at this stage. The status of the petitioners could be better than that of Darshan Singh.

I have heard learned counsel for the parties and have perused the paper book with the help of learned counsel.

At the first blush, the argument of Mr.Bedi looks attractive, but is devoid of merit, for, the judgement rendered in Sat Parkash and another's case(supra) does not apply to the facts and circumstances of the case as the facts would reveal that it was a dispute with regard to the unverified claim. In the facts and circumstances ibid of the instant case no such question has arisen. Further, Mr. Bedi tried to project that the expression 'compensation' used in clause 67-A would not be only in terms of money but also in land.

There is no dispute with the aforesaid proposition. The filing of the suit for

the reliefs as indicated above has not been denied. If at all, the order of the Financial Commissioner dated 2.9.2013 could have been challenged by seeking amendment of the suit. The party cannot be allowed to avail parallel remedies as it would lead to multifarious litigation. In my view this is an act of forum shopping and against doctrine of "Election" which is not permissible. The attempt of the petitioners to challenge the allotment after having remained unsuccessful in obtaining the ad interim order in the pending suit, is nothing, but an act of aggrandizement muchless browbeating the respondents. It is strange that the officer at the helm of affairs had suo motu taken the cognizance by exercising the powers under the provisions of Section 24 of the repealed Act. The exercise of powers have already been pondered upon in the judgment rendered in *[Latoor Singh's case (supra)]* holding therein that suo motu powers cannot be invoked, belatedly. In the present case such action has been taken after 14 years. Mr.Ashish Aggarwal and Mr.Akshay Bhan challenged the locus standi of the petitioners but in my view the petitioners would have right to seek the vindication of their grievance being in possession of the property. The status of the petitioners cannot be better than that of Darshan Singh who had already lost a right of allotment. The appeal of the petitioners seeking allotment under the 2011 rules is stated to be pending. The petitioners in my view should have been properly advised to challenge the impugned order by seeking an amendment in the pending suit. The Financial Commissioner has dealt with all the objections raised by the present petitioners herein, in extenso. The applicability of clause 25 of Chapter (iii) of the Land Settlement Manual would not come to the rescue of the petitioners as it has been held not to be statutory in nature. Award is an

award de hors of the fact whether it has been awarded for the act of services rendered in World Ward I or World War II. For the sake of brevity the finding of the Financial Commissioner Haryana with regard to the aforementioned fact reads as under:-

“ In present reference, the main ground for challenging the aforesaid orders dated 03.08.1988 Gallantry Award Grants, if any, where available to the grants which have been mentioned in Re-settlement Manual. Appendix-IV of the Manual provides the valuation in terms of proprietary land, wherein based on the nature of grant/holdings, an entitlement has been prescribed regarding the statutory cut. In case of Gallantry Award Grants, entitlement of the land is without any cut, if physical possession has been taken and benefit awarded is for World War-2nd only, as mentioned. However, there is no justification to deprive the same benefit to the Gallantry Award grants awarded in World war-1st. Therefore, in my view without any substantive law, the benefit could not be restricted only to the Gallantry Award Grants Awarded in World War-2nd. Moreover, the same Appendix-IV provides full entitlement without an cut in case of Military Reward or Military Jagir Grants if the other conditions (e.g. lapse of prescribed period of allotment or from grant of occupancy rights) have been fulfilled. In the present case, there seems to be no justification to debar the Gallantry Awardee of Grat War-1st (World War-I) from the benefit of “Military Reward or Military Jagir Grants”, even for the same of arguments if the benefit is restricted to World War-2nd ,if other conditions were being fulfilled. Otherwise also, i would be the denial of a legitimate right to Gallantry Awardee and will discriminate him qua the benefit granted to a similar category i.e., Military Reward or Military Jagir Grants.”

The provision of Clause 25 emphatically, relied upon, would not apply to the facts of the present case as the Government had in my view erroneously allowed the cut and not taken care of the expression 'of the persons having rendered services or obtained Gallantry Award.' The said deficiency in allotment can always be considered to be a clerical or arithmetical error which cannot be rectified under Section 25(2) of the 1954 Act. In my view, by taking cognizance and sending the reference to the Financial

Commissioner was nothing but an attempt at the behest of the petitioners to tire out the respondents who had been successful in seeking the allotment. There is a gross difference between the factum of possession in Annexure P-19 and Annexure R-6/2. Annexure R-6/2 does not reflect handing over the possession as symbolic as tried to be projected by Mr.Bedi. As discussed above, this Court vide order dated 13.3.2001(produced supra) vacated the order of stay in writ petition preferred by Darshan Singh. The status of the petitioners evident from the Jamabandi is of a lessee of Ominder Hari son of Darshan Singh. This fact is evident from the lease deed Annexure R-6/3. The injunction and decree dated 7.1.2015 is qua Satbir Singh, Mahboob, Gayur Ali and Riyaz and not against the private respondents. Even otherwise the possession in accordance with law has been taken. No doubt the petitioners had been very fair and honest in disclosing the pendency factum of the civil suit but it would not prevent them from challenging the order by seeking the redressal of the grievance, if any, in the manner or mode/observation herein above, thus, I am of the view that at best the petitioners should have challenged the stay order dated 2.9.2013 and ought not to have challenged the allotment.

For the reasons, the aforementioned orders under challenge are perfectly right, legal and justified and cannot be said to be perverse or arbitrary and do not call for any interference by this Court.

Petition is dismissed.

(AMIT RAWAL)
JUDGE

February 20, 2017
sunita

Whether speaking/reasoned	Yes
Whether Reportable	Yes