

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

CWP No.25409 of 2012
Date of decision : 23.05.2017

Tarsem Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. K.S. Hissowal, Advocate for the petitioner.

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

AMIT RAWAL, J. (Oral)

This Court on 27.02.2017 and thereafter on 08.05.2017, had passed the detailed order, which reads as under:-

“Order dated 27.02.2017 reads thus:-

Additional affidavit of Mr. Pardeep Singh Bains, Tehsildar, Amritsar-1 filed today in Court is taken on record.

The grievance of the petitioner in the present writ petition is writ large inasmuch as that in lieu of the land left in Pakistan, land measuring 40K-8M, was allotted to Makhan Singh, grand-father of the petitioner and as per the order dated 5.8.1996 passed by the civil court, the possession of the same was given to Sadhu Singh and others and, therefore, Makhan Singh and his family could not be given the possession of the same. Even a civil suit filed at Amritsar was decreed. In lieu thereof, the respondents, in the year 2003 issued a Chit

(Parchi), but again possession has not been given.

Learned counsel for the petitioner has drawn the attention of this Court to the order dated 4.12.2015 passed by this Court, whereby the State was called upon to place on record the affidavit along with the documents of the concerned authority with regard to availability of the land at some other place than the one allotted to the petitioner and the reply given in the affidavit is that certain lands belonging to the Central Government are in gairmarusi possession of various persons. Para 4 of the affidavit reads thus:-

“4. That as per the report of the concerned patwari dated 12.01.2016, the Khasra Numbers 17//12/3 (6-2), 17//13 (7-7) total measuring 13 Kanals 9 Marlas had already been mutated on behalf of the Central Government in favour of Bakhshish Singh son of Inder Singh vide mutation No.6512. However, the rest of the Khasra Numbers are the ownership of Central Government and khasra number 47//13 (2-9) is presently in Gairmariusi possession of Harjinder Singh son of Naranjan Singh 1/3 share and Karamjit Singh, Ravinder Singh sons of Swaran Singh 2/3rd share. Khasra numbers 50887/2 (2-0), 14/1 (2-13), total 4K-13M is also in the ownership of Central Government and is in Gairmarusi possession of Tara Singh, Harbans Singh, Gian Singh, Jagdish Singh etc. Copy of the report of the Halqa Patwari dated 12.01.2016 is appended herewith as Annexure R-II.”

The contention of Mr.Hissowal is that his client is not averse to allotment of alternative land in any District other than Amritsar.

Mr.Yatinder Sharma, learned Addl.A.G.Punjab seeks short accommodation to apprise this Court with regard to availability of the land in any other pool for allotment to the displaced persons in lieu of the land left in Pakistan. Let this exercise be done within four weeks.

Adjourned to 3.4.2017.

Last opportunity is granted, failing which the officer concerned at the helm of affairs is directed to remain present in the Court on the adjourned date.”

Order dated 08.05.2017 reads thus:-

The factual aspect has already been noticed by this Court in the order dated 27.02.2017. The question only bound down is as to whether the State of Punjab could allot the alternative land to the petitioner in any Districts other than Amritsar.

Mr. K.S. Hissowal, learned counsel appearing on behalf of the petitioner submits that the area of land is in illegal occupation of certain other persons and therefore, mere allotment of the land would not serve any purpose as the petitioner would not be able to enjoy the fruit of the property.

Mr. Yatinder Sharma, Addl. A.G., Punjab, on instructions Mr. Mukesh Sharma,, DRO, Amritsar, submits that they will look into the matter with regard to the some other vacant piece of land or shall take immediate steps for seeking ejectment of the unauthorized occupants. He also undertakes to take necessary steps to seek the ejectment of other illegal occupants of land belonging to the custodial department or any other evacuee property, which is in possession of the illegal occupants.

Let an affidavit be filed in this regard within a period of two weeks.

Adjourned to 23.05.2017.”

In pursuance to the aforementioned order, the State of Punjab has filed affidavit dated 17.05.2017 of Sub Divisional Magistrate, Ajnala, District Amritsar, stating therein as under:-

“2. That in this regard it is submitted that an area measuring 24 kanals 17 marlas belonging to the

Rehabilitation Department, Punjab has been found available in Village Daria Mansoor, Tehsil Ajnala, District Amritsar. The Punjab Government in the Rehabilitation Department has been recorded as owner of this land measuring 24 kanal 17 marlas comprising of Khasra Nos.2//14(6-9), 15(3-4), 16(8-0), 17(7-4), whereas 'Maqbooja Malkan' have been recorded in the column of cultivation. The classification of this land has been recorded to be 'Banjar Jadid as well as Banjar Qadim' and is lying vacant at the spot. A copy of relevant extract of Jamabandi for the year 2009-2010 of Village Daria Masmoor, Tehsil Ajnala, District Amritsar has been attached as Annexure R/1 for the kind perusal of this Hon'ble High Court."

Mr. K.S. Hissowal, learned counsel appearing on behalf of petitioner submits that the averments made in the affidavit is not correct as land is not vacant and it is in the possession of unauthorized occupant. However, no counter affidavit has been filed.

I am of the view that once State of Punjab on affidavit has submitted that land is vacant, I deem it appropriate to dispose of the present writ petition with direction to SDM, Ajnala to hand over the possession of the aforementioned property i.e. 24 kanals 17 marlas, description of which has been given in the affidavit, issue a allotment letter in favour of petitioner within a period of one month from the date of receipt of certified copy of the order, much less, shall also sanction the mutation in favour of the petitioner.

Mr. Yatinder Sharma, Addl. A.G. Punjab has expressed an apprehension that Kundan Singh had four children and this allotment would

suffice the claim of Kundan Singh.

I am in agreement with the aforementioned submission as the petitioner is claiming the right accrued in favour of Kundan Singh. No other legal heirs would have a right. This allotment would be ensuring the benefit of all the legal heirs of Kundan Singh.

In view of the aforementioned observations, present writ petition stands disposed of.

23.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No