

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

CWP-22299-2015 (O&M)

Date of decision:- 01.08.2017

Raj Kumar Bhatia and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate,
with Mr. Shiv Kumar Sharma, Advocate,
for the petitioners.

Mr. R.K.S. Brar, Additional Advocate General, Haryana.

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S.J. VAZIFDAR, C.J. (ORAL)

The petitioners are illegal occupants of the evacuee/compensation pool property which now vests with the State of Haryana as an evacuee property and is to be managed according to the provisions of the Haryana Evacuee Properties (Management and Disposal) Rules, 2011. The petitioners had earlier filed CWP-10131-1991 which was disposed of by an order of the Division Bench of this Court dated 18.07.2013 by directing the respondents to consider the petitioners' claim.

2. Dr. Sidhu, the learned senior counsel appearing on behalf of the petitioners, invites our attention to Annexure P-11 which is the order of the Tehsildar (Sales), Faridabad dated 12.09.2014. It deals according to him with one such case. It refers to a wrong date of the order in CWP-10131-1991. The order states that the documents do not establish possession of the applicant on the plot prior to

further holds that upon site inspection, it was found that the plot was not even in possession of the petitioner. The name of the petitioner in the body of the order is stated to be Sant Ram, whereas in the title, the name of the petitioner is Gulshan Singh. It is not clear whether the Tehsildar had passed a common order in respect of several petitioners with independent rights or whether he passed separate orders in respect of each of the applicants.

3. Dr. Sidhu relied upon an order dated 22.12.1989 in CWP-16985-1989 to contend that the petitioners were in possession prior to 01.01.2001. This is by no means conclusive of the matter. Firstly, the requirement is not mere possession prior to 01.01.2001, but continuous possession thereafter. Secondly, this order can at the highest only be relied upon by the parties to the same. There are twenty four petitioners before us. Each of the cases would naturally be different. An interim order passed in the case of one petitioner cannot possibly be relied upon by the other petitioners. Moreover, that order was passed in the absence of the respondents. It is only an interim order staying dispossession. At that stage, the Court had obviously not gone into the question of possession.

4. Considering the nature of the claims, it is necessary that the case of each of the occupants must be decided separately by the authorities. Even if the evidence relied upon by one applicant is the same as the evidence relied upon by another applicant, the same must be produced by the former as well. Even if the orders are challenged before this Court, the same would necessarily have to be challenged by each of the parties separately. In these circumstances, the impugned order is quashed and set aside.

5. The Tehsildar (Sales), Faridabad shall decide the case of each of the petitioners separately and pass a separate order in each case. The status quo shall be maintained till the fresh orders are passed and for a period of two weeks thereafter, if adverse to the petitioners. However, each of the petitioners shall maintain status quo in respect of the properties themselves. They shall not alienate, encumber, part with possession of or create any third party rights in respect thereof in any manner whatsoever.
6. The writ petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

01.08.2017

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No