

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.1953 of 2017

Date of Decision: February 02, 2017

State of Haryana & another

...Petitioners

Versus

Abdul Ghani & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Pritam Saini, Addl.A.G.Haryana,
for the petitioners.

AMIT RAWAL, J. (Oral)

Notice of motion.

Mr.Dinesh Ghai, Advocate, who is on the caveat, accepts notice
on behalf of respondent Nos.1 to 3.

Petitioner-State is aggrieved of the impugned order dated
25.4.2016 (Annexure P-1), whereby they have been directed to restore
original land measuring 3 Bighas 9 Biswas in pursuance to the order dated
11.2.1958 (Annexure P-2).

Mr.Pritam Saini, learned Addl.A.G.Haryana, representing the
petitioner-State submits that after partition of the country in 1947, Alla
Diya, father of respondent Nos.1 and 2 and grand-father of respondent No.3
Yasin son of Faiz Bux, approached the Central Government for restoration
of the land on the premise that they are residents of Uttar Pradesh and did
not migrate to Pakistan and, therefore, the land belonging to them could not
have been treated as evacuee property. The aforementioned application was
allowed by the Central Government vide order dated 11.2.1958 (Annexure

P-2). Conceded position on record is that the said order has not so far been set-aside.

The grievance of the respondents, according to Mr.Saini, was that since they were not given any allotment, they approached the Chief Settlement Commissioner, Haryana, but the same was dismissed and then remained silent for another two years and again sought the reference, which was dismissed vide order dated 17.1.1983. Thereafter, again remained silent for a period of thirty years and woke up in 2013 by invoking the jurisdiction of the Financial Commissioner. The doctrine akin to delay and laches squarely applies to the facts and circumstances of the present case. Even for seeking restoration of the possession or file a suit, there is limitation and, therefore, the order under challenge is not sustainable. All these facts have been presented but not take care of and, thus, the order is liable to be set-aside.

I have heard the learned counsel for the petitioners and appraised the paper book and of the view that the order dated 11.2.1958 (Annexure P-2) has not been set-aside so far. The respondents satisfied the condition under Section 28 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. They, in terms of money, also had been compensated in respect of land measuring 10 Bighas 13 Biswas. Even the said money has not been paid. The grievance of the respondents cannot remain unredressed. If the State has not complied with the orders, the eligible persons cannot be deprived on the ground of delay. It was the duty of the Government to implement the order in letter and spirit.

In my view, the action of the petitioners to challenge the impugned order is nothing but an aggravation of the agony of the effected

persons.

I do not intend to differ with the findings rendered by the Financial Commissioner, based upon equity, much less principle of fair play. No ground for interference is made out.

The writ petition is wholly devoid of merit and misconceived. Resultantly, the same is dismissed.

February 02, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No