

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

CWP No.2474 of 2015
Date of decision : 18.05.2017

Hazura Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. S.K. Singla, Advocate for the petitioners.

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

AMIT RAWAL, J. (Oral)

The petitioners have sought quashing of the orders dated 01.02.2010 and 31.05.2010 (Annexures P-1 and P-2) rendered by the respondent Nos.3 and 2 i.e. Claims Commissioner and Financial Commissioner.

Mr. S.K. Singla, learned counsel appearing on behalf of the petitioners submits that in pursuance to the amendment caused in the Punjab Package Deal Properties (Disposal) Amendment Act, 2009 (hereinafter called as Act No.5 of 2009), the State of Punjab invited application from the displaced persons for allotment of the property in lieu of the land left in Pakistan within a period of 90 days. In pursuance to the aforementioned provision of Section 4-B of the Amended Act, the petitioners being displaced person moved an application dated 16.06.2009 (Annexure P-3) on the basis of allotment order dated 13.10.1983 (Annexure P-4). However, the aforementioned application, without taking the reply of the State, has been

dismissed by the respondent No.3 and appeal preferred therein had also met with the same fate. The petitioners had been put into possession only even the allotment was not made. The matter in such proceedings could not have been taken, rather should have been in separate proceedings. The allotment was made on the basis of *abiana* which establishes that petitioners had left the land owing to the partition at Pakistan and, therefore, their right cannot be taken away.

Orders are thus, not sustainable in the eyes of law and are liable to be set aside. The matter with regard to the cancellation of the allotment and the alleged fraud having been played was not the scope of the authority as under Section 4(b) of the Act.

Per contra, Mr. Yatinder Sharma, Addl. A.G., Punjab submits that in the year 1959, the allotment in favour of Hakam Singh was cancelled as his name did not figure in the jamabandi of Village Chak No.3 Kot Mela Ram, Tehsil Multan. However, vide order dated 13.10.1983, AR(L)-cum-MO-Rehabilitation Department, SAS Nagar, Mohali restored the entire allotment but the fact remains that as per the information obtained by the petitioner (Annexure P-8), out of the total land, 10-2 ½ SAs was allotted to Hakam Singh and 6-3 ¾ SAs and 3-3 ¾ SAs to Naranjan Singh and 3-4 ¼ SAs to Har Kaur whereas balance area is still with the allottee. In fact the name of the petitioners did not figure in the jamabandi as *abiana* is not proof of evidence qua land left in Pakistan and, rightly so, application has been dismissed.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the

submission of Mr. S.K. Singla, Advocate, for, the authorities below while entertaining the application under Section 4-B, prima facie, found that in fact AR(L)-cum-MO-Rehabilitation Department, SAS Nagar, Mohali could not have allotted the land on the basis of *abiana* which is not the scope of the Act. There has to be some substantiated evidence i.e. jamabandi which came to light only in the proceedings under Section 4-B, revealing, that names of the petitioners did figure in the jamabandi and thus, could not have been allotted the land and rightly so, finding has been arrived at that petitioners have been allotted the land on the basis of some fraud or misrepresentation. The subsequent Act of allotment in favour of Har Kaur was also not challenged. Even there is no averments in the entire writ petition that what the petitioner had been doing from 13.10.1983 till the amendment caused in the Act. In my view, claim of the petitioners suffers from delay and latches, drawing presumption, being aware of the cancellation.

In view of what has been observed above, I am of the view that impugned orders do not call for interference and cannot be said to be perverse or erroneous and do not falling within the realm of judicial purview.

No ground for interference is made out.

Accordingly, present writ petition is dismissed.

18.05.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No