

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.9874 of 2015
Date of Decision: March 22, 2017

Balbir Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

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

Present: Mr.Balbir Singh petitioner in person.

Ms.Monica Chhibber Sharma, DAG, Punjab,
for the State.

AMIT RAWAL, J.

In pursuance to the order dated 1.3.2017, Mr.Rishab Jain Advocate is present and seeks the liberty of this Court to withdraw his power of attorney. Permission granted.

The grievance of the petitioner in the present writ petition is to the order dated 30.9.2014 (Annexure P-2) passed by the Financial Commissioner (Revenue), Punjab dismissing the appeal filed against the order dated 6.5.2013 (Annexure P-1), whereby the application of the petitioner was dismissed by the Claims Commissioner.

Mr.Balbir Singh petitioner, who is present in person, submitted that he moved an application to the Director, Land Records, who, vide order dated 9.6.1992 directed the Consolidation Officer to hold an enquiry and rectify the error, if any, with a direction to the petitioner to appear before him. In compliance with the aforementioned order, the Consolidation

Officer conducted an enquiry and submitted enquiry report dated 2.11.1994 to the effect that there is deficiency of 9 Bigha and 9 Biswas of land in allotment of land to Uttam Singh. It is also mentioned in the enquiry report that land comprised in Khasra No.1322/644, 1323 and 1324/643 belong to the local people and, therefore, cannot be allotted being not an evacuee property. It was further held that the deficiency in the allotment of land was to be rectified by the Rehabilitation Department.

In pursuance to the observations of the Consolidation Officer, the petitioner filed an application before the Special Secretary, Rehabilitation Department with regard to deficiency in allotment of land and during the pendency of the application, Displaced Persons (Compensation and Rehabilitation) Act, 1954 (for short “1954 Act”) was repealed in the year 2005. The petitioner also filed a civil suit seeking declaration, which was decreed ex-parte vide judgment dated 4.12.2008 giving a direction to the concerned departments to provide the record to the petitioner qua allotment of land to Uttam Singh, Sohan and Deva Singh on the basis of the documents placed on the file of the civil suit with a further direction to rectify the discrepancy, if detected as per rules. Thereafter, the petitioner preferred an application before the Special Secretary, Revenue-cum-Claims Commission, Punjab under the Punjab Package Deal Properties (Disposal) Amendment Act, 2009 (for short “2009 Act”) stating that the allotment case of Uttam Singh etc. is pending, but no action has been taken thereon and the said application was dismissed vide order dated 6.5.2013, which was challenged before the Financial Commissioner (Revenue), Punjab by filing an appeal, which also met with the same fate.

Petitioner submitted that the the orders passed by the Courts

below are totally illegal, arbitrary and unjust. The Courts below have not taken into consideration the order dated 9.6.1992 passed by the Director Land Records, Punjab, whereby a direction was issued to the Consolidation Officer to hold an enquiry and rectify the mistake. The proceedings were pending prior to 2009 Act. In support of his contention, relied upon the ratio decidendi culled out in **Ashwani Kumar Munjal Versus State of Punjab and another, 2014 (4) R.C.R. (Civil) 303** and, thus, urged this Court for setting-aside of the impugned orders.

Per contra, Ms.Monica Chhibber Sharma, Deputy Advocate General, Punjab, representing the State has submitted that the relief claimed by the petitioner is hopelessly time barred in view of Rule 67-A of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 as the petitioner could apply for allotment not later than 31.12.1963, whereas he moved the application for allotment on 3.4.1998. She has relied upon the decision rendered by this court in **Civil Writ Petition No.3142 of 1987 (Vidyasagar Versus State of Haryana)**, decided on 29.11.2010, wherein it has been held that the application for allotment can be made not later than 31.12.1963.

She further submitted that the filing of the application after a period of 35 years before the Claims Commissioner for allotment of land was to make up the deficiency without explaining the same in the earlier allotment and, thus, urged this Court for dismissal of the writ petition.

I have heard the petitioner in person, learned State counsel and of the view that there is no force and substance in the submissions of the petitioner.

As per the provisions of Rule 67-A of 1955 Rules, the

petitioner could apply for allotment of land prior to 31.12.1963, whereas he filed the application before the Claims Commissioner in the year 1998, i.e., after 35 years. He is too late in a day to wake up from slumber and raise the claim at this belated stage. The petitioner has also not made efforts to disclose about the other legal heirs of displaced persons, though it was admitted that there were other legal heirs.

Before the Claims Tribunal, the petitioner has also not been able to prove that he is the only legal heir of his father Sohan Singh and uncles Uttam Singh and Deva Singh allottees. As per the report dated 6.11.2012 received from Tehsildar Malout during the proceedings before the Claims Tribunal, Uttam Singh, Deva Singh and Sohan Singh were allotted 8 standard acres $4\frac{3}{4}$ units land separately and have been given land according to their allotment. Mere giving representation would not wipe out the delay and laches. Mine view is supported by the ratio decidendi culled out by the Hon'ble Supreme Court in **Union of India and others Versus Hardyal, AIR 2010 SC 1155.**

In view of the aforementioned discussion, the claim of the petitioner is not maintainable being barred by law of limitation. Resultantly, the writ petition stands dismissed.

March 22, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No