

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

**CWP No. 3531 of 2017 (O&M)
DECIDED ON : 20.04.2017**

Balbir Singh

...Petitioner

versus

The Financial Commissioner (Revenue) Punjab

...Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present : Mr. Dinesh Ghai, Advocate,
for the petitioner.

AMIT RAWAL, J.

The petitioner has approached this Court for claiming the relief on the premise that in the year 2011, he had submitted an application under Section 4-A and 4-B and other relevant provisions of The Punjab Package Deal Properties (Disposal) Amendment Act, 2009 (for short "the Act"), for allotment of deficient land, which has nothing to do with the earlier decided cases in respect of claim with regard to land abandoned in village Dogranwala, Tehsil and District Gujranwala, West Pakistan.

Learned counsel for the petitioner submits that father of the petitioner late Gulab Singh abandoned the land measuring 485 kanals-19 marlas in village Kot Amar Singh, Tehsil and District Gujranwala, West Pakistan. However, he could not submit any claim in respect of the said land. It is further submitted that

during the earlier round of litigation during general allotment, land measuring 10-½ standard acres equal to 66 bighas equal to 113 kanals was allotted to the father of petitioner. However, according to the petitioner, the land which was already allotted, was under mortgage in Pakistan which was subsequently got redeemed by the father of petitioner from the competent authority at the redemption rate fixed at Rs.450/-per st. acre and since the claim of petitioner was not fully satisfied, the petitioner approached this Court for making good the deficiency by way of allotting the remaining land. In this regard, he had earlier filed a petition before the Financial Commissioner, which was dismissed and thereafter, filed a writ petition in this Court. The factum of having not been submitted any claim with regard to the above mentioned land, acquired knowledge on receipt of information obtained under the Right to Information Act. Therefore, due to inadvertence/bona fide mistake, the petitioner had been deprived of a piece of land for no fault of his. However, the Secretary, Revenue-cum-Claims Commissioner, Punjab, exercising the powers under the Act, vide order dated 17.02.2012 (Annexure P-2), dismissed the aforementioned application.

Aggrieved against the said order, petitioner preferred appeal before the Financial Commissioner (Revenue), Punjab, Punjab Civil Secretariat, Chandigarh (Annexure P-3) and vide order dated 27.01.2015 (Annexure P-4), the same had been dismissed.

Thereafter, the petitioner approached this Court vide CWP No. 16561 of 2016 and this Court, vide order dated 17.08.2016 (Annexure P-5) allowed the petitioner to withdraw the writ petition with liberty to file review application. He submits that the review petition had been erroneously dismissed vide impugned order dated 30.11.2016 (Annexure P-6) as this Court while dismissing the same has held that there is no provision under the Act of 1976 (ibid) for entertaining the review and thus, contends that the order under challenge qua dismissal of the review petition and other orders declining the applications, are not sustainable in the eyes of law, on the premise that the present round of litigation was with regard to the claim qua land abandoned in village Dogranwala, Tehsil and District Gujranwala, West Pakistan and it has nothing to do with the earlier claims. The petitioner was/is entitled for total land measuring 485 kanals 19 marlas, out of which he had already been allotted 113 kanals and after applying the cut, he would be entitled to remaining land measuring 279 kanlas out of 372 kanals. The purpose and object of The Displaced Persons (Compensation and Rehabilitation) Act, 1954, is to rehabilitate the displaced persons who have been displaced from their properties in Pakistan and the authorities cannot bring into motion the technicalities and enter cases of law to defend the relief. The provisions of Rule 67-A of The Displaced Persons (Compensation and Rehabilitation) Rules, 1955 would not apply in the light of settled principle of law in case "**Naik Dalip**

Singh vs. FCR” on the premise that a person is entitled to land on the basis of entries in the Jamabandi received from Pakistan and provisions of Rule 67-A of the Rules (ibid) are not attracted. He further submits that petition (Annexure P-1) is deemed to have been presented within a period of limitation in view of the notification of the Punjab Government, whereby limitation of 90 days has been prescribed. Thus, the case could not have been thrown on the ground of delay and latches.

I have heard learned counsel for the petitioner and appraised the paper book and in my view the writ petition is liable to be dismissed, being devoid of merit. The writ petition is absent/bereft of specific pleading as to when the claim with regard to allotment of land in village Dogranwala, Tehsil and District Gujranwala, West Pakistan, was denied at any point of time.

The reason given for delay in filing is that wife of the petitioner was suffering from asthma and the petitioner himself is a patient of hypertension and one of the ground for not approaching the Court or any other competent authority for moving the application in time, is that application submitted in the year 2011, cannot extend the limitation, as no doubt for the purpose of adjudication on the question of delay and latches, the Limitation Act do not apply but the principles envisaged thereunder. It has to be seen that the petitioner approached the court with clean hands at last within reasonable period. No

person can take the plea of ignorance of law being as it is not a bliss.

The argument of Mr. Ghai, that after the dismissal of the appeal by the Financial Commissioner on the ground of delay and laches, this Court had granted liberty to the petitioner to review the reasons assigned by the Financial Commissioner and the matter should have been remanded back to the Financial Commissioner for decision afresh, is neither here nor there, as this Court granted liberty to file review petition only as it was on the request of petitioner. For the sake of clarity, the order of this Court dated 17.08.2016 is reproduced hereunder :-

“RAMESHWAR SINGH MALIK, J.

Feeling aggrieved against the numerous orders Annexure P-1, P-2 and P-4 passed by the respondent authorities, petitioner has approached this Court by way of present writ petition, under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari.

After arguing the case for some time, learned counsel for the petitioner seeks permission of the court to withdraw the present writ petition, with liberty to the petitioner to avail his appropriate remedy, including by filing review application before the competent authority.

Permission is granted.

Dismissed as withdrawn, with liberty as prayed for.

17.8.2016

(RAMESHWAR SINGH MALIK)

gs

JUDGE

No evidence has been placed on record with regard to seeking condonation of delay. It is a matter of record that three similar applications were rejected by the competent authority vide separate orders which were based on almost the same subject, though an attempt had been made to give different tangent colours. The petitioner cannot be permitted to keep on agitating his claim by keeping it alive in the way and manner he think it appropriate. The axe has to fall. The reasons assigned by the authorities are perfectly justified.

So, in view of the detailed discussion, no interference by this Court is made out. The writ petition is accordingly dismissed.

(AMIT RAWAL)
JUDGE

APRIL 20, 2017
shalini

Whether speaking/reasoned	YES/NO
Whether reportable	YES/NO