

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

LPA No.564 of 2017 (O&M)

Date of Decision : 15.05.2017

Manjit Kaur and others

....Appellants

Versus

F.C. Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

...

Present : Mr. Som Nath Saini, Advocate
for the appellants.

...

MAHESH GROVER, J. (Oral)

CM No.1162-LPA of 2017

C.M. is allowed as prayed for subject to all just exceptions.

LPA No.564 of 2017

This is an appeal directed against the judgment of the learned
Single Judge dated 23.01.2017.

The appellants claim themselves to be in possession of the
suit property for the last more than three decades and plead their
tenancy under the State of Punjab.

We may before noticing other facts simply state here that no
such document is on record and neither was any produced before us
at the time of hearing which compels us to conclude that the very
basis of the appellants' claim is unfounded.

There was an allotment made in favour of one Ujaggar Singh,
a displaced person, of land measuring 9 bighas 4 biswas on

12.07.1955 by the Revenue and Rehabilitation Department and Sanad in this regard was issued on 30.06.1956. Since this land stood acquired by Gurdwara, the possession could not be delivered to the allottee. Ujjagar Singh suffered a statement on 06.06.1957 to give up the allotment which was incapable of being effected and the allotment was cancelled, ostensibly to give him alternative land. Sustained efforts followed but before they would fructify Ujjagar Singh died and in 1993 the legal heirs pursued the matter and their entitlement was accepted.

Since their predecessor-in-interest Ujjagar Singh was having a verified claim which could not fructify into possession for the reasons stated above, on 04.12.2000 allotment of alternate land in Village Rur Majri, Tehsil Samrala, District Ludhiana was made which was challenged by the present appellants by filing an appeal before the Sub Divisional Magistrate exercising the powers of Sales Commissioner, Samrala, which was dismissed vide order dated 26.11.2002. Appeal against the said order was also dismissed on 02.05.2003 and these orders attained finality. A civil suit was preferred which was also dismissed on 22.04.2009. However, there was no decree of ejecting the appellants from the land in question except the one which mandated their eviction only in due course of law. It may be necessary to mention here that the present appellants filed an appeal against the judgment of the civil court but withdrew it after three years. In the meantime, the respondents moved an application seeking possession of the property on 22.09.2009 and on

17.11.2009 warrants of possession were issued and possession was handed over on 10.03.2010. The learned Single Judge noticed with reference to the order of the Commissioner dated 21.04.2009 that it was merely an order of remand giving liberty to the authorities i.e. Tehsildar Sales to entertain the application of the respondents keeping in view the civil court order by following the due procedure of law before warrants of possession were issued and possession delivered.

Learned counsel for the appellants does not dispute that the possession had been retrieved from him but contends that the allotment in favour of the respondents was erroneous and that he being tenant was entitled to the land. This argument has to be repelled for two reasons : one, that the order of allotment in favour of the respondents stood concluded and the challenge made thereto nullified way back with no further challenge to the same. The subsequent finding of suit resulting in mere injunction protecting the appellants from being dispossessed except in due course of law would be inconsequential for the reasons that the possession has been lawfully retrieved under the orders of the revenue authorities which have been duly noticed in the judgment of the learned Single Judge. The respondents clearly had a verifiable claim originating from their predecessor-in-interest which was acknowledged by way of allotment of alternate land. As against this the appellants have been unable to show any document to legitimize their possession. They claim to be tenants under the Punjab Government but have failed to produce any material before us. That being the situation and the allotment in

favour of the respondents having attained finality, there would be no cause to interfere.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

15.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

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