

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.71 of 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.10017 of 2007 dated 22.09.2017.

Two Writ Petitions i.e W.P.Nos.13808 and 10017 of 2007 were filed before this Court by persons who purchased the subject land either from Major Harikishan Das to whom the land was allotted, under the Laoni Rules, 1950, in the year 1965, or from persons to whom he had sold a part of the subject land. The show caused notice dated 27.04.2007, under challenge in the writ petition, was issued on the ground that such allotment was illegal, as lands could not be assigned to ex-servicemen above the cadre of a Jawan.

It is not in dispute that the said show cause notice was issued only to Major Harikishan Das, and neither to his legal heirs or to those who had purchased these lands from him. It is also not in dispute that Major Harikishan Das died in the year 2005, long before the show cause notice was issued on 27.04.2007. The show cause notice has, evidently, been issued to a person who was not even alive on the date on which it was issued. This aspect has not been dealt with by the Learned Single Judge in the order under appeal.

On the short ground that the show cause notice dated 27.04.2007 was issued to a person who was not even alive as on the date on which the said notice was issued, the said notice must be and is, accordingly, set aside. Suffice it to make it clear that this order shall not disable the respondents from issuing a notice afresh to the legal heirs of the deceased

Major Harikishan Das, or to those who purchased these lands from him,
in accordance with law.

The Writ Appeal stands disposed of accordingly. Miscellaneous
petitions pending, if any, shall also stand disposed of. There shall be no
order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

05th March, 2018
JSU



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Date: 05.03.2018

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