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

CWP No.16008 of 2018

Date of decision: 10.10.2018

Puran Chand

...Petitioner

Versus

The Financial Commissioner (Revenue), Punjab and another

..Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

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

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges order dated 1.8.2016 (Annexure P/2) passed by respondent no.2 and the order dated 14.3.2018 (Annexure P/4) passed by respondent no.1-the Financial Commissioner (Revenue), Punjab whereby the claim for allotment of deficient land in lieu of the land abandoned by predecessor-in-interest of the petitioner in village Balu Chak, Tehsil and district Sialkot, Pakistan was dismissed.

The reasoning of respondent no.1 to deny the claim of the petitioner is that claim was hopelessly time barred and there was no documentary evidence to establish the case of the petitioner. It is also noticed that there was no case pending before the competent authority under the Displaced Persons (Compensation & Rehabilitation) Act, 1954 at the time of repealing the said Act and therefore respondent no.1 did not interfere with the order dated 1.8.2016 (Annexure P/2) passed by the Claims

Commissioner.

A perusal of the order of the Claims Commissioner would go on to show that the petition was filed in the year 2012 and it was noticed that the application should have been filed within 90 days of the coming into force of the Punjab Package Deal Properties (Disposal) Amendment Act, 2009. Resultantly while placing reliance upon the Apex Court judgment in **Union of India Vs. Har Dayal AIR 2010 (SC) 1155** and following the view taken in **Civil Writ Petition No.20606 of 2010-Surender Kaur and others Vs. Financial Commissioner and others** decided on 18.3.2014, the application was dismissed.

A perusal of the paper-book would also go on to show that the claim as such of the petitioner was on account of the allotment made to the father of the petitioner of 10-1/2 SA land which was cancelled on 28.7.1958. From 1958 no such effort was made for making good the allotment in favour of legal representatives of Tara Chand. The application dated 31.3.2012 (Annexure P/1) which has been filed on the ground that mother namely Amaroo had not agitated for her grievance and under Section 4-B of the Amended Act of 2009 the claim has to be filed within 90 days. In Division Bench judgment in **CWP No.9517 of 2008-R.K.Suneja and another Vs. State of Haryana and another** decided on 10.11.2018, it was also held that all pending applications on 6.9.2005 have to be taken into consideration. The relevant portion reads as under:-

“The Advocate General, Haryana, has also handed over to us, during the course of hearing of the instant writ petition, a communication dated 22.9.2008, received by the Chief Secretary, Punjab, from the Ministry of Home Affairs,

Government of India. It is submitted by the Advocate General, that identical communications were also despatched by the Government of India to the Chief Secretary for the State of Haryana. A copy of the communication dated 22.9.2008, is taken on record and marked as Annexure-A. A perusal of the instructions dated 22.9.2008 (Annexure-A) reveals, that in order to remove any ambiguity which may have been created as a consequence of the promulgation of the Displaced Persons Claims and Other Laws Repeal Act, 2005, on 6.9.2005 (whereby the Displaced Persons (Claims) Act, 1950, the [Administration of Evacuee Property Act](#), 1950, the Evacuee Interest (Separation) Act, 1951, the [Displaced Persons \(Claims\) Supplementary Act](#), 1954 and the Displaced Persons (Compensation and [Rehabilitation](#)) Act, 1954, were repealed) was taken as having the effect of rendering nugatory all pending issues under the repealed Acts with effect from 6.9.2005. On a re-determination of the issue, after taking into consideration various orders which have earlier been issued by the Ministry of Home Affairs, it was considered appropriate to remove any ambiguity which may have been created as a consequence of the notification of the Displaced Persons Claims and Other Laws Repealed Act, 2005. Accordingly, the instruction dated 22.9.2008 (Annexure-A) was issued. Relevant extract of the aforesaid instruction is being reproduced hereunder:-

"...in order to remove ambiguity and doubts which appear to have been created, it is clarified that the enactment of the displaced persons claims and other Laws repeal Act 2005 would not affect disposal of the following categories of cases and the State Government/UTs may, therefore, take action as appropriate, to settle them under the relevant State Laws or the [General Clauses Act](#):-

3.1 Unsatisfied verified claims filed under the [Displaced Persons \(Claims\) Act, 1950](#), in which right has accrued or has been acquired and which were pending as on 6.9.2005, the date on which the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts were repealed. 3.2. Cases in which directions have been issued by various Courts for settlement of claims filed, confirming that an acquired or accrued right exists in favour of the claimant, under Displaced Persons (Claims) Act, 1950.

3.3. Verified claims in which full compensation has not been given so far.

3.4. Appeals and revision/review petitions filed against orders passed by the authorities prescribed under the repealed Acts which are not yet to be disposed off".

Having identified the revival of the specified categories of matters the policy instructions dated 22.9.2008 clarified that unsatisfied verified claims, in connection with which proceedings are pending as on 6.9.2005 would not be affected by the provisions of the repealed Acts, referred to hereinabove."

In the present case, it is admitted that application itself was filed in the year 2012 and there was nothing pending as such before the authorities. Therefore, argument as such of the petitioner that there would be recurring cause of action is not liable to be accepted. The cancellation of 1958 was not agitated for 54 years and therefore the observations of the Apex Court in **Har Dayal's case (supra)** would be squarely applicable which read as under:-

"7. The learned Single Judge and the Division Bench have totally ignored the enormous delay of more than 30 years on

the part of the respondent in approaching the Court. This Court has repeatedly held that merely giving representation will neither extend the limitation nor wipe out the delay and laches. [See : **S.S. Rathore vs. State of MP - AIR 1990 SC 10**]. Further the respondent and his brothers were categorically informed in September, 1989 that due to non-availability of agricultural land, they were entitled only to cash equivalent of compensation as per the rules and therefore, Rs.383/50 each being their share of compensation was to their credit and they could draw the same. Respondent could have challenged that order on the ground that he was entitled to land and not cash. But he did not do so. The refusal to allot the balance land whether right or wrong, attained finality. Obviously, it could not be reopened by filing a writ petition in 1996, more than 45 years after the verification of the claim, and 7 years after categorical refusal to allot land. The writ petitions ought to have been rejected on the ground of delay and laches. There was no question of rewarding the delay on the part of respondent, by directing payment of current market value of 1996 for the undelivered land, contrary to the Rules.

8. The orders of the learned Single Judge and Division Bench are also bad for vagueness. The learned Single Judge held that as no land was available the respondent was not entitled to land but nevertheless held that the compensation of Rs.383.50 calculated in accordance with the Rules, amounted to a pittance after all these years and therefore he should be given the market value of the land as on the date of the writ petition. But different areas of Delhi have different market values. In fact, there is no rural agricultural land available and no standard market price for agricultural land. The value of land is always with reference to a particular land or a land in a specified area. We fail to understand how the appellants can be expected to calculate the value of the 'land' in 1996 and pay him the value as compensation.

9. On the facts and circumstances, the judgment of the High Court directing payment of the market value as in 1996 cannot be sustained. The writ petition ought to have been dismissed on the ground of delay and laches.”

Resultantly, findings recorded by the authorities below do not require any further consideration.

Accordingly, the present writ petition is dismissed in limine.

October 10, 2018
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No