

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

**LPA No.50 of 2013 (O&M) in
Civil Writ Petition No.1059 of 2010
Date of Decision: July 30, 2018**

Swarna Ram

...Appellant

Versus

Nirmal Singh & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

**Present: Mr. Ajaivir Singh, Advocate,
for the appellant.**

None for respondent No.1.

Ms. Anu Pal, Deputy Advocate General, Punjab.

AMIT RAWAL, J.

Appellant being aggrieved of the order dated 14.09.2012 passed by the learned Single Bench allowing the civil writ petition preferred by respondent No.1- petitioner, has filed the present intra-court appeal.

The detailed facts have already been noticed by the learned Single Bench and need not be repeated for the sake of repetition.

The point, which is involved in this case, is whether the appellant was eligible for allotment of land on the basis of long and settled possession in view of the policy promulgated by the Government for allotting the land on the basis of the possession under the Punjab Package Deal, Properties (Disposal) Act, 1976 (for short, 1976 Act).

Respondent No.1- writ petitioner challenged the impugned

action of the authorities for quashing the orders passed by the quasi judicial authorities for allotment of land in favour of the appellant on the premise that he had been in long and settled possession of the land comprising of khewat No.93, khatauni No.382, khasra No.1148/818 (1-7), 819 (10-15), 320 (8-18), 823/1 (6-14), 224/1 (3-14), whereas appellant had shown himself as resident of Dhian Singh Colony, Hariabad Road, Phagwara, District Kapurthala. The eligibility for the purpose of allotment of land measuring 5 standard acres or 10 ordinary acres, on the basis of the long possession, was that the petitioner should be resident of that area. Concededly, the appellant had the land holding measuring 12 acres in Village Fatehgarh Lakha, Tehsil Phillaur, District Jalandhar. Appellant got the land allotted and as well as conveyance deed dated 02.12.2003, for, at the relevant point of time, was a sitting MLA, which led to challenge by respondent No.1. The authorities below did not accept the contention of respondent No.1, necessitating him to file the writ petition.

Mr. Ajaivir Singh, learned counsel representing the appellant submitted that father of the appellant was in possession of the land in dispute and after his death, appellant stepped into his shoes. Respondent No.1- petitioner had already filed a civil suit which fact was not disclosed in the writ petition. The land belonged to the Provincial Government and was allotted to the appellant in accordance with law. Learned Single Bench swayed away in setting-aside the allotment only on the premise that appellant was a sitting MLA and also remained a Cabinet Minister. Had the decision been given independent of such observation, perhaps the writ petition was liable to be dismissed.

It was further argued that the findings of the learned Single

Bench that the appellant had become the owner of 16 acres of land in both villages and had become ineligible for allotment is neither here nor there, for, as per Section 4 of 1976 Act, appellant was allotted less than 5 ordinary acres, whereas, on the other hand respondent- petitioner had not paid any rent/lagan, much less placed any documents to substantiate the eligibility for allotment of land on the basis of long and settled possession.

We have heard the learned counsel for the appellant and appraised the paper book.

The appeal is pending since 2013 and notice of motion was issued on 03.09.2013 and during all this period, appellant had not complied with the order dated 15.01.2013, whereby in order to establish the possession, he was required to produce relevant khasra girdawari and also explain as to how khasra girdawari came to be recorded in his name. It would be in the fitness of things to reproduce the order dated 15.01.2013.

The same reads thus:-

“The appellant filed an application that the land, in dispute, is in his unauthorized occupation since 1994 and the land has been allotted to the appellant on the basis of his application/affidavit and, surprisingly, in accordance with the policy framed by the State of Punjab.

A perusal of the entire paper-book including orders passed by Revenue Authorities, allotting land to the appellant, reveal that they do not refer to any revenue document regarding the appellant's possession since 1994. At this stage, counsel for the appellant prays for time to produce the relevant revenue record. The appellant would also be required to produce the relevant khasra girdawari and shall also explain as to how the khasra girdawari came to be recorded in his name.

Adjourned to 23.1.2013.”

Misc.Application No.604 of 2013 dated 1.2.2013 has been filed to place on record documents Annexures A-1 to A-13, which were allowed to be taken on record on 25.03.2013. Though an attempt has been made to establish that appellant had been in possession of the land since 2009 onwards, but the fact of the matter is that specific allegations averred in Para 10(i) to (xiii) in the writ petition were not emphatically denied. Various allegations contained in Para 10 of the writ petition are:-

- 1) Numbardar and witnesses of the conveyance deed were not residents of the village;
- 2) Appellant never cultivated the land in question nor had link or concern with the land;
- 3) Appellant had never been inhabitant of Village Chhauha where the land was situated despite that conveyance deed was executed in his favour;
- 4) Appellant never deposited the rent in question to the Punjab Government and the revenue record in his favour was not according to actual spot;
- 5) Attempted to alienate the land;

The factum of the appellant being MLA and Cabinet Minister at the relevant point of time had also not been denied in the memorandum of appeal except that the allotment was made during the regime of some other government without any specific date etc.

Though the respondent- State attempted to defend the order passed by the authority, but as a matter of fact, it came on record that the appellant, at any point of time, was not resident of the area where the land was situated but was of District Kapurthala. Rather he owned land in a village situated in District Jalandhar. None of the provisions of 1976 Act make a person eligible for allotment of land in case he owns the land in

some other village. This is what has been noticed in extenso by the learned Single Judge.

For the reasons stated above, we do not find any illegality or perversity in the impugned order allowing the writ petition by setting-aside the allotment of land made in favour of the appellant and by upholding that the necessary follow up with regard to the conveyance deed executed would follow.

It cannot be lost sight of the fact that the allotment of the land was for a paltry amount of ₹ 23,000/- or so, that too in the year 2002. The appellant appeared to have wielded influence in seeking allotment of the land in his favour and attempted to sell the same. An elected person cannot be permitted to squander away the land belonging to the Provincial Government in the manner and mode as noticed above by the learned Single Bench.

No ground for interference is made out. Resultantly, Letters Patent Appeal is dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 30, 2018
ramesh

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No