

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

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Date of decision: 03.12.2018

1. RSA No.560 of 2011 (O&M)

Inderjeet Singh **Appellant**

Versus

Lal Singh and others **Respondents**

2. RSA No.561 of 2011 (O&M)

Inderjeet Singh **Appellant**

Versus

Lal Singh and others **Respondents**

3. RSA No.562 of 2011 (O&M)

Inderjeet Singh **Appellant**

Versus

Lal Singh and others **Respondents**

4. RSA No.563 of 2011 (O&M)

Inderjeet Singh **Appellant**

Versus

Swaran Kaur and others **Respondents**

5. RSA No.564 of 2011 (O&M)

Inderjeet Singh **Appellant**

Versus

Swaran Kaur and others **Respondents**

6. RSA No.565 of 2011 (O&M)

Inderjeet Singh

..... Appellant

Versus

Swaran Kaur and others

..... Respondents

7. RSA No.3258 of 2011 (O&M)

Lal Singh

..... Appellant

Versus

Balbir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. O.P. Goyal, Sr. Advocate with
Mr. Karamjit Singh Chahal, Advocate
for the appellant (in RSA No.560 to 565 of 2011).
for respondent No.1 to 3 (in RSA-3258-2011).

Mr. Arun Jain, Sr. Advocate with
Mr. R.P.S. Ahluwalia, Advocate
for respondents No.1 and 2 (in RSA No.560 to 565 of 2011).
for the appellant (in RSA-3258-2011).

ANIL KSHETARPAL, J. (ORAL)

CM-17679-C-2018 in RSA No.3258-2011

Application is dismissed as not pressed.

Main Cases

Vide this judgment, I shall be disposing of seven regular second appeals bearing RSA No.560, 561, 562, 563, 564, 565 of 2011 and RSA No.3258 of 2011 which are connected.

There were three suits filed by different children and grand-children of Maha Singh who had stated to have migrated from the area

which is now part of Pakistan occupied Kashmir. After Maha Singh migrated along with his children, he lodged a claim for allotting the property as an evacuee property. The proceedings remained pending and Maha Singh died in the year 1967. The authorities first issued a letter of allotment (Sanad) dated 14.05.1970 determining that Maha Singh shall be entitled to the land equivalent to 6th standard acres. However, the allotment letter while depicting allotment of 1/3rd land in the name of Harnam Singh and Nanak Singh sons of Maha Singh whereas 2/3rd of the total land in the name of Maha Singh, who had already died. This Sanad was subject matter of subsequent proceedings in appeal and revision. The Additional Settlement Officer-cum-Assistant Settlement Commissioner passed an order on 17.06.1974 modifying the conveyance deed issued. This order was upheld by the Chief Settlement Commissioner on 01.05.1975 Ex.PE on the file. Further revision before the Financial Commissioner-cum-Secretary to Government of Haryana, Rehabilitation Department resulted in modifying the allotment and the operative part of the order reads as under:-

“To my mind it seems a matter of coincidence that the balance has been paid by the elder son, Lal Singh; that does not give him an independent right to take the entire share to the exclusion of the other heirs. It would be more logical to hold that the property of Maha Singh should be apportioned amongst all the heirs of Maha Singh by virtue of their status as the descendants of Maha Singh; and in this respect, the fact that certain other independent benefits had been availed of at separate point of time in Jammu & Kashmir by Harnam Singh and Nanak Singh, is to my mind not relevant.

In these circumstances, I find that there is a good deal of force in the present petition, and I accordingly direct that the land in question should be apportioned amongst all the heirs of Maha Singh (deceased). It would be equitable if the

amount of the installment paid by Lal Singh is also shared amongst all the heirs, but this is a matter between them.

Parties may be informed.”

It will be noted that the Financial Commissioner in very first para of the order had noticed that he was deciding the allotment of land measuring 6th standard acres to Maha Singh. The writ petition before the High Court challenging this order failed.

There is another round of litigation which was initiated on the application of Kuldeep Singh. The Managing Officer passed an order dated 02.03.1995 against which once again the matter was taken up with the higher authorities and the Chief Settlement Commissioner, Haryana vide order dated 19.12.1996 Ex.D-8 on the file observed that the order passed by the Managing Officer is clearly amounting to contempt of the order which has been upheld upto the Financial Commissioner. However, since the concerned Officer has retired, therefore, the Chief Settlement Commissioner did not proceed against the official. However, the order passed by the Managing Officer dated 02.03.1995 was specifically set aside. Against the order of Chief Settlement Commissioner, once again matter was taken up before the Commissioner Revenue-cum-Secretary to Government of Haryana, Rehabilitation Department. The order passed by the Chief Settlement Commissioner was upheld. Now the stage is set for third round of litigation i.e. these three suits.

After appreciating the evidence, learned trial Court held that the allotment of land in 1970 in favour of Harnam Singh and Nanak Singh qua 1/3rd share equivalent to 37 kanals and 15 marlas was not in dispute in the subsequent proceedings whereas learned First Appellate Court while adjudicating upon the appeals while referring to the orders passed by the

Financial Commissioner dated 12.10.1978 has held that the entire property i.e. equivalent to 6th standard acres was in dispute before the Financial Commissioner and therefore, the entire property which is equivalent to 6th standard acres would be divided as per natural succession in favour of all the legal heirs.

At this stage, it would be noticed that no doubt, Harnam Singh and Nanak Singh have been allotted certain land in Sambha as noticed by the Financial Commissioner in its order dated 12.10.1978, however, taking into consideration the facts which have come on record, the Financial Commissioner ordered that the property which has been allotted to Maha Singh in absence of any testamentary disposition would be apportioned amongst all the heirs of Maha Singh. Such finding of the Financial Commissioner has been upheld by the High Court in the writ petition.

This Court has heard learned senior counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record.

Learned senior counsel appearing for the appellant in RSA Nos.560 to 565 of 2011 has vehemently argued that the property which was allotted to Harnam Singh and Nanak Singh on 14.05.1970 was never in dispute and therefore, the learned First Appellate Court committed an error in including the aforesaid land measuring 37 kanals and 15 marlas as the property which was allotted to Harnam Singh and Nanak Singh while dividing the entitlement of various class of heirs of late Sh. Maha Singh. On the other hand, learned senior counsel appearing for the respondent, in the aforesaid six appeals, has pointed out that the total entitlement of Maha Singh was held to be of 6th standard acres which came to 113 kanals and 6

marlas ordinary area, and the Financial Commissioner in the order dated 12.10.1978 has decided that the allotment of land to the extent of 6th standard acre was in favour of Maha Singh who had since died.

Learned senior counsel appearing for the appellant in the aforesaid six appeals was repeatedly requested to point out any material or evidence available on the file which proves that Harnam Singh and Nanak Singh were owners of some land in Pakistan occupied Kashmir in lieu whereof any allotment was made in their favour, however, learned counsel could not draw attention of the Court to any such evidence. Once the order passed by the Financial Commissioner specifically refers to 6th standard acres which is subject matter of proceedings before him, the argument of learned counsel for the appellant in the aforesaid six appeals cannot be accepted.

The 7th appeal i.e. RSA No.3258 of 2011 has been filed by Lal Singh and others with the assertion that since the amount was paid by them, therefore, other legal heirs have no right, title or interest in the property. Even this argument of learned counsel has no substance because once the Financial Commissioner has found that the allotment has been made in lieu of land owned by Maha Singh in Pakistan occupied Kashmir, the payment of installment by any of the brother would not make any difference. The Financial Commissioner has dealt with this issue in the order which has been extracted above and that is found to be correct appreciation of facts.

In the present case, the entire dispute has arisen, because Maha Singh died before the allotment letter could be issued. Since the appellants in the aforesaid six appeals have failed to show that they had any independent right to claim the evacuee property apart from Maha Singh, the

judgment passed by the learned First Appellate Court does not require any interference.

All the applications in all the appeals shall stand disposed of accordingly.

All the appeals are dismissed.

03.12.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No