

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

LPA No.1129 of 2017
Date of Decision: 22.10.2018

Satpal Kaur and others

..... Appellants

Versus

Municipal Corporation, Ludhiana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Mohit Vashisht, Advocate
for the appellants.

MAHABIR SINGH SINDHU J.

This Letters Patent Appeal (for short 'LPA') has been preferred under Clause 10 of the Letters Patent against the impugned judgment dated 08.03.2017 passed by learned Single Judge of this Court whereby a writ petition filed by the Municipal Corporation, Ludhiana-respondent No.1 has been dismissed and allotment of land in favour of respondent Nos.7 to 9 measuring 24 Kanals 6 Marlas, situated in village Bhaura, Tehsil and District Ludhiana made on 14.07.1974 has been held valid but at the same time observed that appellants have failed to prove the exchange of land in dispute i.e. 4 Kanals with the Gram Panchayat-respondent No.4.

Brief facts of the case are that Ladha Ram, son of Sohna Ram, Om Parkash son of Ram Chand and Bhagwati widow of Ram Chand (respondents No.7 to 9, respectively) were allotted land measuring 24 Kanals 6 Marlas on 14.07.1974 in village Bhaura in lieu

of land left by them in Pakistan at the time of partition being displaced persons under Displaced Persons (Compensation & Rehabilitation) Act, 1954 (for short 'Act of 1954').

The Gram Panchayat of village Bhaura had already given about 4 kanals of land out of land allotted to Ladha Ram etc. to the inhabitants of village belonging to Backward Class and Scheduled Castes, who were not having any residential houses. In view of the above, Gram Panchayat is alleged to have exchanged the another piece of land against that 4 Kanals of land to end the litigation between Ladha Ram etc. and Gram Panchayat by way of exchange in the year 1976. Subsequently, the area of Municipal Corporation, Ludhiana was extended and the revenue estate of village Bhaura became the part of municipal area. Consequently, the land already vested in the Gram Panchayat became the property of the Municipal Corporation. Present appellants claim to be the *bonafide* purchasers from Ladha Ram etc.

An application was submitted to the Deputy Commissioner, Ludhiana for incorporation of the exchange of 4 Kanals of land in the record of the Corporation by issuance of a Corrigendum under Section 25(2) of the Act of 1954. After receipt of the application, a report was sought from the Tehsildar, Ludhiana (East) and the applicants were also asked to submit relevant documents i.e. allotment letter, Girdawari, Jamabandi and power of attorney issued by Ladha Ram etc. regarding the allotment of land

measuring 24 Kanals 6 Marlas as well as resolution of the Gram Panchayat for exchange of land in question but they failed to submit any resolution. Consequently, Deputy Commissioner rejected their claim vide order dated 03.04.2003 (P-2). Aggrieved against the above order, an appeal was preferred by respondents No.7 to 9 before the Commissioner, Patiala Division, Patiala and the same was accepted vide order dated 26.02.2004 (P-3) primarily on the ground that land has been mutated in favour of the Municipal Corporation without impleading the appellants as party and they have been condemned unheard. Consequently, a direction was issued to sanction the mutation of the land measuring 4 Kanals in favour of the appellants. Aggrieved against the order passed by the Commissioner, the Municipal Corporation, Ludhiana-respondent No.1 filed a revision petition bearing ROR No.376 of 2004 titled as “***Municipal Corporation, Ludhiana vs. Ladha Ram and others***” before the Financial Commissioner, Punjab and the same was accepted vide order dated 31.08.2010 (P-4) while observing that land measuring 24 Kanals 6 Marlas was a *Shamilat Deh* and vested with the Gram Panchayat under Section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short “Act of 1961”). Consequently, the allotment of land in the year 1974 in favour of Ladha Ram etc. was not valid in view of the judgment of Hon'ble the Supreme Court passed in “***Gram Panchayat of village Jamalpur vs. Malwinder Singh***”, 1985(2) AIR 468.

Against the above order of Financial Commissioner, a Review Petition was filed by appellants and which was allowed on the ground that in view of the amendment No.8 of 1993 of the Act of 1961, the land measuring 24 Kanals 6 Marlas cannot be treated as *Shamilat Deh* being an exception carved out under Section 2(g)(ii-a) and according to which if the *Shamilat Deh* has been allotted to a displaced person on or before 09.07.1985, the same is valid. Since the present allotment was made to Ladha Ram etc. in the year 1974, therefore, the Financial Commissioner accepted the Revision Petition vide order dated 09.03.2012 (P-5) and recalled the earlier order dated 31.08.2010 while observing that allotment was validly made in favour of Ladha Ram etc. but there was no adjudication regarding the exchange of land in dispute i.e. 4 Kanals by Gram Panchayat.

Aggrieved against the order dated 09.03.2012 (P-5) , the Corporation-respondent No.1 filed Writ Petition before this Court and the same was dismissed vide order dated 08.03.2017 but as discussed above, the exchange of 4 Kanals of land is not accepted. Hence, the present LPA.

It is argued by learned counsel for the appellants that they are the *bonafide* purchasers and resolution was duly passed by the Gram Panchayat for exchange of 4 Kanals of land in the year 1976 and since then, they are continuing in possession. Therefore, the impugned judgment passed by the learned Single Judge to the extent rejecting their claim for exchange of land is not legally sustainable.

Heard learned counsel for the appellants and perused the paper-book.

There is no dispute that allotment made in favour of Ladha Ram etc. in the year 1974 regarding the land measuring 24 Kanals 6 Marlas, situated in revenue estate of village Bhaura, District Ludhiana has been upheld by the learned Single Judge while passing the impugned judgment and that is not the subject matter of challenge either by the Gram Panchayat or the Municipal Corporation and as such the same has attained finality.

The only dispute is regarding the exchange of 4 Kanals of land which was in possession of inhabitants of the village Bhaura belonging to the Backward Class/Scheduled Castes for their residential houses. Although it is the contention of learned counsel for the appellants that a valid resolution was passed by the Gram Panchayat but neither before the authorities below, nor with the present paper-book, such a resolution has been produced/annexed or reflected in the revenue record. The Deputy Commissioner while rejecting the claim of the Ladha Ram etc.-respondent Nos.7 to 9 (vendors of the present appellants) observed as under:-

“The applicant came present and submitted photocopy of allotment slip, according to which, the applicant is owner of land measuring 24 kanals 6 marlas. But he could not submit any resolution of Gram Panchayat regarding the land measuring 4 kanals which has been obtained by the applicant in

exchange from the Gram Panchayat, nor he could submit any evidence regarding the houses constructed in the said land. No record pertaining to possession over said land has been submitted, nor any power of attorney has been submitted by the applicant, nor any entry is made in the jamabandi about transfer of possession of said land to Gram Panchayat or allotment of land by Gram Panchayat in favour of Ladha Ram.”

There is no material available on record to come to the conclusion that the above findings regarding exchange of land is wrong in any manner. Unfortunately, neither the Commissioner; nor the Financial Commissioner have adverted to this aspect of the matter, and it was only the learned Single Judge, who considered the matter in true perspective while rejecting the claim of the appellants regarding the exchange of the land and that has been rightly declined on the basis of the record of the case.

In view of the above, this Court does not find any illegality with the impugned judgment passed by learned Single Judge while entertaining the present *intra-court* appeal, which is a correctional jurisdiction. Consequently, there is no merit in the LPA. Hence, the same is dismissed.

(RAJESH BINDAL)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

22.10.2018

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No