

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

LPA-1859-2018 (O&M)

Date of decision:- 29.11.2018

Joginder Singh and another

...Appellants

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Vikram Singh Chauhan, Advocate,
for the appellants.

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KRISHNA MURARI, C.J. (ORAL)

CM-4810-LPA-2018

For the reasons mentioned in the application, the delay of 192 days in re-filing the appeal is condoned.

The application stands disposed of.

LPA-1859-2018

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 25.01.2018 passed by learned Single Judge dismissing the writ petition filed by the petitioners (appellants herein).

2. The controversy in brief can be summarized as under:-

It is alleged that vide order dated 14.10.1966, Assistant Collector, Kapurthala allotted nazool land situated in village Jhal Tikriwala, District Kapurthala in favour of the appellants. However, no transfer certificate, as required under Rule 11 of the Nazool Land (Transfer) Rules, 1956, was issued. An application in this regard since was pending for a long time before the Collector and no decision was being taken the

appellant approached this Court by filing CWP-22172-2014 which was disposed of by making the following observations:-

"The learned senior counsel appearing on behalf of the petitioners would submit that there is a request made to the Collector for transfer of the property and issue a certificate therefor under the Nazool Land (Transfer) Rules, 1956 on the basis of alleged allotment said to have been made in favour of the grandfather in the year 1966. The order of the Commissioner under the PP Act confirms the position that a transfer is possible only by the Collector and an Assistant Collector will not be competent. The counsel states that the petitioners' representation to the Collector for consideration of transfer has still not been considered. The representation said to have been given under Annexure P9 shall be considered and an appropriate order passed within a period of 4 weeks from the date of receipt of copy of this order. The order under PP Act will abide by the decision of whether the petitioners are entitled to transfer of the property, for, that would also consequently conclude the issue of whether the petitioners' possession of the property could be justified or not."

3. Pursuant to the aforesaid order passed by this Court, the Collector considered the application and dismissed the same on the ground that right of allotment under the Rules is vested with the Collector and the allotment order passed by the Assistant Collector on the basis of which the appellants were claiming right was per-se without jurisdiction.

4. Both the appeal and revisions filed by the appellants were also dismissed by Commissioner, Jalandhar Division, Jalandhar as well as Financial Commissioner.

5. Learned Single Judge has also dismissed the writ petition on the ground that the allotment order has been passed

by the Assistant Collector without having jurisdiction in the matter.

6. During the course of arguments, learned counsel appearing for the appellants has failed to point out anything to controvert the finding that the Assistant Collector had no jurisdiction to make the allotment. The order of the Assistant Collector being totally without jurisdiction, merely because it is alleged to have been passed in 1966, will not be clothed with authority.

7. For the aforesaid facts and discussion, we see no good ground to take a view different from the one taken by learned Single Judge.

8. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

29.11.2018
Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No