

**R.A. No.389 of 2017 (O&M) in  
CWP No.25861 of 2014**

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

**R.A. No.389 of 2017 (O&M) in  
CWP No.25861 of 2014  
Date of Decision.28.09.2018**

Alka Gupta and another

.....Petitioners

Vs

The State of Punjab and others

...Respondents

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

Present: Mr. Aman Dhir, Advocate  
for the review-applicant/respondent No.4.

Mr. A.K. Chopra, Senior Advocate with  
Mr. Harminder Singh, Advocate &  
Ms. Palak Dev, Advocate  
for the non-applicant (Darshan Singh and Jagnandan  
Singh).

Mr. M.K. Singla, Advocate  
for the non-applicant/petitioner.

Ms. Anu Pal, DAG, Punjab.

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**AMIT RAWAL J.**

**C.M. No.10981 of 2017**

For the reasons stated in the application, delay of 51 days  
in filing the review petition is condoned.

Application is allowed.

**C.M. No.10982 of 2017**

The application for impleading the legal representatives  
of deceased-respondent No.4, Raj Kumar is allowed subject to all just  
exceptions and the legal representatives are ordered to be brought on  
record for the purpose of adjudication of present review petition.

**R.A. No.389 of 2017**

The present review application has been filed on behalf of legal representatives of respondent No.4, Raj Kumar son of Faqir Chand.

Before I could advert to the grounds raised in the review petition wherein an attempt has been made to show that the judgment dated 15.05.2017 passed on the basis of compromise arrived at before the Mediation and Conciliation Centre of this Court, was an outcome of fraud having been played upon the review applicant, I would like to give pre-face of the controversy.

Alka Gupta wife of late Sh. Sanjiv Gupta and Aditya Gupta son of late Sh. Sanjiv Gupta filed the writ petition aforementioned by challenging the impugned order dated 20.11.2012 (Annexure P-9). It was averred that one Dwarki Devi widow of Mauli Ram was a big landlady and her surplus area was decided by Collector, Muktsar vide order dated 28.12.1959. As a consequence thereof, the proceedings under Section 24A(ii) of Punjab Security of Land Tenures Act, 1953 were completed on 30.03.1973 by the Circle Revenue Officer. As per the provisions of law, proceedings for the purpose of assessment of surplus area were taken up under the Punjab Land Reforms Act, 1972. Dwarki Devi widow of Mauli Ram filed a return in respect of land situated in village Chak Tamkot. Vide order dated 27.03.1976 (Annexure P-1), respondent No.3 Special Collector (Agrarian) declared 26.76 hectares of land in surplus pool after leaving the permissible area of 7.1 hectares of first quality of land.

Dwarki Devi preferred an appeal against the

aforementioned order, which was dismissed vide order dated 24.08.1977 (Annexure P-2). The revision petition preferred before respondent No.1-Financial Commissioner was accepted vide order dated 29.12.1983 (Annexure P-3) and the case was remitted to Collector (Agrarian) for fresh decision. Respondent No.3 in compliance of the order of remand, declared the permissible area of 7 hectares of land of first quality with Dwarki Devi under Section 18 of the Punjab Land Reforms Act, 1972. Respondent No.4 Raj Kumar and respondent No.5 Ashwani Kumar were also allotted land measuring 195 kanals 5 marlas under the Punjab Utilization of Surplus Area Scheme, being sitting tenants.

Vide order dated 29.03.1976 (Annexure P-1), it was held that remaining 173 kanals 8 marlas in excess of the maximum limit under the cultivation of the tenants had become available for allotment of the land less eligible persons by draw of lots. Operative part of the order dated 29.03.1976 passed by the Collector (Agrarian) Muktsar reads as under:-

*“3. After allotment of above mentioned area to the sitting tenants up to the extent of two hectares of first quality and measuring 173 kanals and 8 marlas in excess of the maximum limit under the cultivation of the under mentioned tenants has become available for allotment of the land less eligible persons by drawing lots for which separate order of allotment will be passed...”*

Again aggrieved, parties assailed the orders and the

mater reached this Court vide CWP No.10551 of 2002 along with other writ petitions. This Court vide order dated 14.09.2010 remitted the matter to the Financial Commissioner directing the parties to appear before the Commissioner. In these circumstances, the order of the Financial Commissioner as aforementioned has been assailed.

Mr. Aman Dhir, learned counsel appearing on behalf of the review applicants has raised the following grounds to attack the order of this Court disposing of the writ petition:-

- (i) The compromise arrived at before the Mediation and Conciliation Centre of this Court was between Alka Gupta, Aditya Gupta and one Jagnandan and Jagdeep, who were not parties to the writ petition.
- (ii) The Mediator noticed that applicants had already transferred the subject land to them whereas the applicants never transferred their share in favour of aforementioned persons and therefore, they had no right to compromise the matter.
- (iii) The counsel appeared on their behalf was never engaged by the applicants. The applicants came to know about the settlement and judgment dated 15.05.2017 when mutation was sanctioned by the revenue authorities vide mutation No.1767 dated 6.7.2017.

Noticing the aforementioned contentions in detail, this Court on 25.08.2017 issued notice to the non-applicant/petitioners.

In response to the aforementioned notice, reply has been filed on

behalf of the non-applicant/respondents by opposing the maintainability of the review petition and prayed for dismissal thereof. The preliminary objection has been taken by averring that the review application has been filed dishonestly, with mala fide intention and motivated and even irresponsible, false and malicious allegations have been made against the answering respondent as the applicants intentionally and knowingly withheld and suppressed the fact that 2 hectare surplus land allotted to predecessor in interest of applicants had been sold vide 4 (four) registered sale deeds dated 13.03.2002 (12 kanals 19 marlas), 20.04.2002 (22 kanals), 28.04.2004 (8 kanals) and 08.11.2006 (28 kanals 11 marlas). The sales were made by Veena Rani @ Veena Kumari widow of Raj Kumar, who died on 23.05.1997. The possession of the land was already with the said vendees and the said vendees had been fighting litigation in respect of the land. Similarly, the land measuring 2 hectares allotted to respondent No.5 was also sold by him to Jagnandan Singh vide registered sale deeds dated 06.02.1991 and 07.02.1991.

The aforementioned writ petition came up for hearing on 15.02.2017 along with CWP No.16644 of 2013 and the land owners in both the writ petitions were same. In the present petition, land owners were petitioners. In other writ petition, Harbans Singh, land owner was one of the respondent. The present writ petition was listed at Sr. No.215 and the matter in Harbans Singh's case was listed at Sr. No.207, in which order dated 15.02.2017 (Annexure R/1) was passed.

Learned counsel appearing for the land owners in the instant case

pointed out that this matter be sent to the Mediation and Conciliation Centre and the same was acceded to vide order Annexure R-2 and this fact has been conveniently withheld from this Court. In fact, Harminder Singh, Advocate was counsel in other case i.e. Harbans Singh's case and not in the present case.

It was pointed that the Mediator had summoned Jaswant Singh, Naib Tehsildar, Tehsil and District Muktsar Sahib and Dharampal Halqa Patwari, Chak Tamkot, who had brought the relevant record and as per the jamabandies Appendix C-1 and C-2 which were taken on record, it was found that Rectangle No.7, Killa No.13, 15, 16, 17, 18 and 22 were in the ownership of the Provincial Government and available for allotment to the petitioners.

In response to the aforementioned reply, applicants have filed the rejoinder and placed on record sale deeds Annexures A-5, A-6 and A-8.

Mr. Chopra raised objection with regard to correctness of transaction as from reading of the vernacular sale deeds, it seems that in the translated copy an attempt had been made to believe the Court that possession had been handed over to the vendees on the date of execution of the sale deed whereas possession was already with the vendees.

Mr. Aman Dhir submitted that the aforementioned sale deeds were not pertaining to land in question but pertaining to some other land. There was no willful attempt to withheld the information with regard to sale deed of 2 hectares of surplus land to the vendees and in order to come out with transparency and fairness,

aforementioned sale deeds had been attached.

I have heard learned counsel for the parties, appraised the paper book, grounds of review petition as well as reply and of the view that there is no force and merit in the submissions of Mr. Aman Dhir and the review application is liable to be dismissed. The reason is not one but many.

From the perusal of the extracted portion of Annexure P-1, which has attained finality by virtue of compromise, Raj Kumar, predecessor-in-interest of the applicants was allotted 2 hectares of land. No evidence or any material placed on record to show that in the excess land alleged to have been under cultivation of tenants, they had been in possession. In order to prove the same, no documentary evidence like khasra girdawari and various other documents had been brought on record. Thus it was clear that Raj Kumar being tenant was not allotted more than 2 hectares of land.

An attempt had been made to give a distorted picture with regard to presence of the counsel, which has been explained vide Annexure R-1 and R-2 that Mr. Harminder Singh, Advocate had appeared for the petitioners in another connected case and not in the present case. The operative part of the settlement needs to be extracted wherein for arriving at settlement both the Tehsildar concerned and the Halqa Patwari were summoned, who brought on record jamabandies to show that aforementioned killa numbers were in the ownership of Provincial Government and were available for allotment. The same reads as under:-

*“2. In compliance of the order of the Hon'ble Court*

*Mr. Jaswant Singh Naib Tehsildar, Tehsil and District Shri Muktsar Sahib and Dharampal Halqa Patwari, Village Chak Tamkot, Tehsil and District Shri Muktsar Sahib have come present along with relevant record of property in question. Naib Tehsildar Sh. Jaswant Singh produced jamabandi of the year 2015-2016, Village Tam Chak Hadbast No.40, Tehsil and District Shri Muktsar Sahib along with rough site plan mentioning land i.e. Rectangle No.7 Killa No.13 (8-0), 15 (8-0), 16 (8-0), 17 (8-0), 18 (7-14), 22 (4-2). The photocopy of the jamabandi as well as rough site plan of the land mentioned above are taken on record as Appendix C-1 and C-2. It has further been informed by the Revenue Official namely Jaswant Singh, Naib Tehsildar that above said land is lying under the ownership of Provincial Government and is available for allotment to the petitioners.”*

Apparently it appears to be an attempt to arm-twist the vendees to extract certain benefits by taking the benefit of memo of parties. Thus, it is clear case of aggrandizement whereas no prejudice has been caused to the applicants as sought to be projected in the review application. Review petition cannot be filed at the drop of hat and there is a challenge before the judiciary to dealt with frivolous litigation. Though the courts have been reluctant to order prosecution but to stop frivolous litigation and making false pleadings, provisions of Section 340 and 195 Cr.P.C. can always be resorted to. Section

209 of the Indian Penal Code provides that dishonestly making a false claim in the Court is also an offence punishable with imprisonment which may extend to two years.

I refrain myself to initiate action in the instant case but the aforementioned provisions can be pressed in case where there is an deliberate attempt to make a false claim. I do not find any error apparent on the face of record to review the order dated 15.05.2017 passed by this Court. The review application is dismissed.

**(AMIT RAWAL)  
JUDGE**

**September 28, 2018**

Pankaj\*

Whether Reasoned/Speaking    Yes

Whether Reportable                No