

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

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Civil Writ Petition No.18340 of 2019
Date of Decision: July 9th, 2019

Shakuja Singh and others

...Petitioners

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harsimrat Randhawa, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 31.08.2016 (Annexure P-6) passed by the Financial Commissioner (Revenue), Punjab-respondent No.2, whereby revision petition preferred under Section 18 of the Punjab Land Reforms Act, 1972 read with Section 84 of Punjab Tenancy Act, 1887 by respondents 3 and 4 for setting aside the notice dated 10.06.2016 issued by the Collector, Amritsar, under the Punjab Land Reforms Act, 1972, regarding land measuring 13.32 hectares i.e. 32.78 acres situated in Village Rampura and Chak Mukand as per *jamabandi* for the year 2008-2009, Tehsil and District Amritsar, and for deletion of the remarks regarding ban on the sale of land in the remarks column of the *jamabandi*, stands allowed on the ground that respondent Nos.3 and 4 are the *bona fide* purchasers and their right is protected under the Transfer of Property Act covered by the exemption created retrospectively with effect from 24.01.1971 by the Punjab Act No.32 of 2011, whereby if the land was being used for non-agricultural purposes even on 24.01.1971, it do not permit reopening of the case.

2.

Petitioners have challenged the said order on the ground that

the surplus land as declared of respondent No.3, which order of declaring the land surplus has attained finality upto the Supreme Court, was allotted to the petitioners/predecessors of the petitioners under the Punjab Land Reforms Act, 1972. Counsel for the petitioners asserts that the petitioners, as per clause 10 (e) of the Punjab Utilization of Surplus Area Scheme, 1973, being the allottee, were not competent to transfer their rights of the land to any person till they become the owners or before the expiry of 15 years of the date of possession. This period of 15 years started from 2003 onwards when the SLP of respondent No.3 being SLP (C) No.1251 of 2000 was dismissed, meaning thereby that the order dated 04.09.1984 allotting the land to the petitioners became final but the possession of the land could only be handed over to the petitioners in the year 2003. He asserts that the *bona fide* purchaser, who has stepped into the shoes, cannot get the benefit as the sale which is alleged to have been made in favour of the said respondent vide registered sale deed dated 18.07.2006 cannot sustain as the same was in violation of the scheme of allotment. He asserts that in the light of the bar, petitioners/predecessors of the petitioners would entail cancellation of allotment as per paragraph 11 of the Punjab Utilization of Surplus Area Scheme, 1973. He, thus, contends that the sale deeds are not sustainable and, therefore, the order dated 31.08.2016 (Annexure P-6) passed by the Financial Commissioner (Revenue), Punjab, cannot sustain.

3. This contention of learned counsel for the petitioners cannot be accepted in the light of the fact that the petitioners cannot take the benefit of their own wrong. The sale deeds have not been challenged by the petitioners in any forum till date and the sale deeds subsist as of now. The factum of

possession being with the private respondents is not disputed, rather what has been asserted is that the land which was allotted to the petitioners was being used by respondent No.2 for dumping industrial waste. Assertion was also made that they have given the land on lease.

4. Be that as it may, the petitioners cannot be permitted to take benefit of their own wrong and, therefore, cannot be now allowed to turn around and assert that they would be entitled to the land which was allotted to them/their predecessors earlier as per the allotment letter.

5. The delay in approaching this Court after almost three years further creates doubt in the mind of the Court with regard to the *bona fides* of the petitioners. This Court, therefore, refuses to exercise its extraordinary writ jurisdiction in the present case when the petitioners have surrendered their interest way back after selling the land through registered sale deed in the year 2006, which sale deeds are unchallenged.

6. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

July 9th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No