

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

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CIVIL WRIT PETITION NO.1154 OF 2018

DATE OF DECISION: AUGUST 20, 2019

Fakiria

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. A.P.Bhandari, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.

Petitioner has approached this Court, challenging the order dated 26.09.2016 (Annexure P-14) passed by the Naib Tehsildar (Sales), Yamuna Nagar, whereby the application dated 10.08.2012 filed under Rule 4 of the Haryana Evacuee Property (Management & Disposal) Rules, 2011 (for short, “the 2011 Rules”) by Fakiria son of Sh.Mangal Ram (petitioner herein) for purchase of land comprised in Khasra No.19//4-5, 12//4-5, 18//1, total area 13 kanals 17 marlas situated in Village Haidarpur, Tehsil Chhachhrauli, as per the policy of the Government, stands dismissed, appeal against which preferred by the petitioner has also been dismissed by the Deputy Commissioner-cum-Commissioner (Sales), Yamuna Nagar, vide order dated 04.05.2017 (Annexure P-16).

2. It is the contention of learned counsel for the petitioner that the State Government decided to allot the land on lease-cum-purchase basis to

the scheduled caste community. Nandu and Mangal Ram, who were brothers and Chamar by caste, were to be leased out gairmumkin inferior evacuee land measuring 8 bighas 10 biswas compromised in Khasra Nos.211, 189, 388/261, 137, 113, 138, 139, 161, 163, 160, 432/259 situated in Village Haidarpur, H.B. No.423, as per the Punjab Government, Revenue Department letter dated 29.08.1961. It is relevant to add here that after the re-organization of State of Punjab, the said area fell in District Ambala which later on bifurcated has come within the limits of District Yamuna Nagar. A copy of letter dated 20.03.1963 is annexed as Annexure P-1 with the writ petition.

3. As per the assertion of counsel for the petitioner, lease deed was entered into between State of Punjab and Nandu and Mangal Ram son of Karma on 28.05.1963 (Annexure P-2) for the said land. The said lease deed does not depict period of lease. However, it was mentioned therein that for the first five years the tenants are not required to pay the land revenue. Option was also given that they could purchase the land from the Government and the proprietary rights will be given to them. The respondent Department invited applications in pursuance of circulars issued by the State of Haryana from time to time for transfer of the land in possession of the lessees so that they could become the absolute owner of the same. Mangal, father of the petitioner, submitted an application on 15.07.1974 (Annexure P-3) for purchase/transfer of the said land, including that of his brother as he had died unmarried and had no successor except for him. The rate of the land was also calculated. The petitioner had also deposited an amount of Rs.2847/- in the year 1993 with the Social Security and Welfare Rehabilitation Department. The said application, however, did

not materialise.

4. Thereafter petitioner, Fakiria, who is son of Mangal Ram, submitted an application dated 31.07.2012 (Annexure P-13) in the office of Tehsildar (Sales), Yamuna Nagar, for purchase of land which was leased out to Nandu and Mangal Ram sons of Karma. The said application stood dismissed on the ground that the revenue record does not tally with the previous numbers and in the record of cultivation, name of Nandu son of Karma has been mentioned, while the petitioner is seeking allotment of whole of the land whereas the ownership of the land is 10 shares of the Central Government only out of the total land. He has also failed to produce the khasra girdawaries for the years 1963-64, 1975-76 and 2015-16. The rapat roznamcha with regard to the possession having been handed over to father of the petitioner has also not been presented. Despite various opportunities having been granted, the petitioner has failed to fulfill the conditions of the policy of the State and, thus, his application was dismissed by the Naib Tehsildar (Sales), Yamunanagar, vide order dated 26.09.2016 (Annexure P-14).

5. An appeal has been preferred before the Deputy Commissioner-cum-Commissioner (Sales), Yamuna Nagar, who has also come to the same conclusion vide order dated 04.05.2017 (Annexure P-16). Apart from what has been held by the Naib Tehsildar (Sales), the appellate Authority has further said that no documentary evidence has been produced by the petitioner to the effect that he is the sole legal representative of deceased Nandu as he did not fulfill the conditions as laid down under Rule 8(4) of the 2011 Rules for allotment and accordingly dismissed his application.

6. Counsel for the petitioner has stated that he has filed a civil suit

for declaration to the effect that the petitioner is the sole legal heir of deceased Nandu son of Karma, his paternal uncle but that does not mean that he is the sole legal heir of Nandu, unless a decree is passed by the court in his favour.

7. Despite various opportunities having been granted by this Court, no documentary evidence has been placed on record, which would answer the questions as have been raised by the authorities under the Haryana Evacuee Property (Management & Disposal) Act, 2010. Since the petitioner does not fulfill the requirements of the statutory rules till date in his application submitted to the Naib Tehsildar, the same has rightly been dismissed by the authorities.

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

August 20, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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