

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.4310 of 2016
Date of Decision: 19.02.2020

Chamkaur Singh and others

....Petitioners

Versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Sahil Vashishat, Advocate,
for Mr. S.S.Salar, Advocate,
for the petitioners.

Mr. Suveer Sheokand, Additional Advocate General, Punjab

Mr. Onkar Rai, Advocate,
for Mr. Neeraj Sharma, Advocate,
for respondent No.2.

KARAMJIT SINGH, J.

This writ petition has been filed by the petitioners for issuance of a writ in the nature of certiorari for quashing of order dated 08.10.2015 (Annexure P-31) passed by respondent No.2-Chairman, Improvement Trust Ludhiana and for issuance of a writ of mandamus directing respondent No.2 to allot one plot of appropriate size to the petitioners under the Local Displaced Persons Category on reserved price, as per the Rules, which were prevalent at the time of the acquisition of land.

The case of the petitioners is that their father, Sarwan Singh son of Sher Singh, was owner of residential plot measuring 800 Square Yards within Khasra Nos.1168/115-1169/116 in village Dugri, Tehsil and District Ludhiana.

In the meantime, Model Town Extension Part II Scheme was sanctioned by the

Improvement Trust Ludhiana and a big chunk of land including the above-said residential plot of Swaran Singh was acquired, vide Award dated 27.07.1976. The Improvement Trust Ludhiana had already framed Land Disposal Rules in the year 1964, which were superseded by Rules of 1975. Thereafter, new Rules were framed in 1983. As per the said Rules, Local Displaced Person was entitled to get one plot at concessional rate. No such plot was allotted to Sarwan Singh (since deceased) or the petitioners under the aforesaid Rules, despite the fact that application along with earnest money was submitted to Improvement Trust Ludhiana at the relevant time. The other similarly situated persons had already been allotted plots under the aforesaid Rules. Some of the land owners, whose land was acquired, filed writ petitions, which were disposed of by this Court with a direction to consider their cases for allotment of plots, in accordance with the Rules. The case of the petitioners was illegally rejected by respondent No.2, vide impugned order dated 08.10.2015 (Annexure P-31). Not being satisfied by the said order, the present writ petition has been filed by the petitioners.

The writ petition is contested by respondent No.2, who filed reply, in which, it was pleaded that the Award of village Gill No.2 was pronounced on 05.08.1973 and that of village Dugri was pronounced on 31.10.1974. As per the Award, Sher Singh son of Kishana Singh was the owner of land measuring 0 Biswa 15 Biswansi (2400 Square Yards) out of Khasra Nos.1168/115 and 1169/116 and was owner of another land measuring 1 Biswa 15 Biswansi (5405 Square Yards) comprised of Khasra Nos.61/1 and 61/2. After the passing of the Award, Sher Singh died leaving behind Jodh Singh, Swaran Singh (sons) and

Ranjit Kaur (daughter) as his legal heirs. The applications for allotment of plots under the Scheme for Local Displaced Persons were called in between 12.12.1974 to 18.01.1975. However, the petitioners did not apply at that time for allotment of plot. After the death of Swaran Singh, petitioners, being his legal heirs, filed CWP No.4200 of 2012 for allotment of plot in the above-said Scheme. The writ petition was disposed of with a direction to Respondent No.2 to re-determine the claim of the petitioners in view of the judgment cited therein and if they were found entitled to plot, consequently, allotment be made in their favour. The claim of the petitioners was considered and was declined, vide impugned order dated 08.10.2015 (Annexure P-31), in accordance with the provisions of law. It is prayed that the writ petition be dismissed.

We have heard learned counsel for the parties and also gone through the record.

It is not disputed that the residential plot measuring 800 Square Yards belonging to Sher Singh, grandfather of the petitioners, was acquired by Improvement Trust Ludhiana, vide Award dated 27.07.1976. The petitioners have claimed one plot at concessional rate on the ground that they are to be considered as Local Displaced Persons, being legal heirs of the original land owner, who was not allotted any such plot during his life time. The claim of the petitioners was declined by respondent No.2, vide impugned order dated 08.10.2015 (Annexure P-31), on the ground that their father was not the owner of the acquired land and legal heirs of Sher Singh were entitled to get only one plot and, thus, the petitioners alone were not entitled for allotment of plot.

In exercise of the powers conferred under Clause (xiii) of Sub-

Section 1 of Section 73 of the Punjab Town Improvement Act, 1922, the State of Punjab made rules known as Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975. Thereafter, the Punjab Government framed new rules called, 'The Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983'. As per both the said rules, Local Displaced Persons are entitled to be allotted plots in lieu of their land acquired.

The Full Bench of this Court in **Jarnail Singh and others Vs. State of Punjab and others, 2011 AIR (Punjab) 58**, held that in case of any compulsory acquisition of land by the Government for public purpose, a co-owner, as per the eligibility criteria fixed by the State Government, shall be entitled to be considered for allotment of plot irrespective of the fact that his holding of land was joint with other co-owners. It was also observed by the Full Bench that the restriction of allotment of one plot to a joint khata holder is unreasonable and arbitrary, as each of the land owner is entitled to the rehabilitation in his individual right.

In **Rajiv Manchanda and others Vs. Haryana Urban Development Authority and another, 2018(4) R.C.R. (Civil) 508**, the Full Bench of this Court while dealing with allotment of plots to oustees under the Haryana Urban Development Authority Act, 1977, held that the rights of the co-owners are now established by the judgment of the Full Court in Jarnail Singh's case (supra).

While passing of the impugned order (Annexure P-31), respondent No.2 had not taken into consideration the law laid down by the Full Bench in Jarnail Singh's case (supra). Accordingly, this writ petition is disposed of with a direction to the Director, Local Government, Punjab, to look into the matter,

keeping in view the above cited decisions of the Full Bench of this Court. The needful shall be done, in accordance with law, within a period of six months from the date of receipt of the certified copy of this order.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

19.02.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No