

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

Sr. No.106

CWP-20281-2020

Date of decision : 27.11.2020

Gurbachan Kaur and others

..... Petitioners

VERSUS

Deputy Commissioner, Kapurthala and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.N. Saini, Advocate, for the petitioners.

SUDHIR MITTAL, J. (Oral)

A chunk of land measuring 82 kanals and 03 marlas was auctioned by the rehabilitation department in favour of one Mohan Lal on 23.12.1964. One of the terms of the allotment was that the land would not be sold before expiry of a period of 10 years. In violation of the said stipulation, Mohan Lal sold the entire land to one Vidayavati in the year 1969, who sold it further to Tarsem Singh and Ujagar Singh, who further sold it to Sawarn Singh (person in possession as on date). Meanwhile, the rehabilitation department initiated proceedings for cancellation of the allotment on the ground of violation of the terms of auction. Order of cancellation dated 17.6.1975, was passed which was challenged by Sawarn Singh etc. by way of a writ petition viz. CWP-5210-1975. The said writ petition was disposed of vide order dated 9.10.1979 with a direction to the concerned authorities to pass a fresh order after hearing the subsequent vendees. A fresh order was passed on 28.3.1985 and the cancellation order dated 17.6.1975 was maintained. Meanwhile, Gopal Singh (predecessor-in-interest of the petitioners) was allotted 42 kanals

and 05 marls of land vide allotment dated 6.11.1981, being a displaced person. Swaran Singh etc. filed a civil suit in December, 1985 challenging the order dated 28.3.1985, claiming themselves to be bona fide purchasers for value. The said proceedings culminated vide order dated 7.12.2018, whereby, SLP has been decided and the order of cancellation dated 28.3.1985 has been upheld.

Learned counsel for the petitioners submits that order of allotment dated 6.11.1981 was not under challenge in the civil suit or in any other proceedings. The civil suit has finally been dismissed by the Supreme Court vide judgment dated 7.12.2018 and the order of cancellation dated 28.3.1985 has been upheld. Thus, the petitioners are entitled to possession of 42 kanals and 05 marlas land allotted to their predecessor-in-interest i.e. Gopal Singh and the remaining land is to be taken over by the State. However, representation dated 4.6.2019 made by the petitioners has been kept in abeyance by the Tehsildar, Sultanpur Lodhi on the erroneous assumption that order of status quo granted by the Supreme Court is still in operation. Representation dated 3.7.2019 made to the Deputy Commissioner has also not yielded any result. Thus, a direction may be issued to the respondents to take action, in accordance with mandate of Rules 58 and 68 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (for short 'the Rules').

Notice of motion.

Mr. Charanpreet Singh, AAG, Punjab, accepts notice on behalf of all the respondents-State and waives service.

In view of the nature of the order being passed, there is no necessity to seek a written statement.

The petition is disposed of with direction to the respondents to take appropriate action, in accordance with Rules 58 and 68 of the Rules, on the basis of representation(s) made by the petitioners, within a period of eight weeks from the date of receipt of certified copy of this order. The petitioners shall be at liberty to file a further representation. In case, it is decided that the petitioners are not entitled to grant of possession, a speaking order be passed.

(SUDHIR MITTAL)
JUDGE

27.11.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No