

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 960 of 2021 (O&M)

Date of Decision:02.03.2021

Manphool

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ravi Dutt Sharma, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.AG., Haryana

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This writ petition has been filed challenging order dated 06.03.2020, Annexure P-15, passed by respondent no.2 on an application dated 07.01.2020, filed by the private respondents and setting aside mutation no. 4728, Annexure P-16 entered and sanctioned on the basis of said order.

It is submitted that petitioner is an allottee of the land which was declared surplus in the year 1960. Petitioner being a landless labourer of Village Padla, Tehsil and District Kaithal, was allotted the land in question on 26.11.1976. Application under Section 8(1) of the Haryana Sealing Act, 1992 and Punjab Security Act, 1953 filed by respondents no.3 to 6, for recalculation of the land and correction of an alleged clerical mistake in order dated 14.06.1960 has been wrongly entertained by respondent no.2 and impugned order dated 06.03.2020 has been passed without even issuance of notice to the subsequent allottees. It is however, not denied that possession

of land in question is not with the present petitioner. It is averred that they were dispossessed in the year 2001. It is not revealed as to whether any steps were taken by the petitioner in this regard.

At this stage, learned counsel for the respondent-State to whom advance copy of the petition has been supplied, submits that order dated 06.03.2020, Annexure P-15, is an appealable order in terms of Section 18 of the Haryana Ceiling on Land Holdings Act, 1972 (for short 'Act'), which reads as under:-

“18. Appeal, Review and Revision. - (1) Any person aggrieved by any decision or order of the prescribed authority, not being the Collector, may, within [fifteen days] from the date of the decision or order, prefer an appeal to the Collector in such form and manner as may be prescribed :

Provided that the Collector may entertain the appeal after the expiry of the said period of [fifteen days] if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by a decision or order of the Collector (whether acting as prescribed authority or not) not being a decision or order made in an appeal under sub-section (1), may, within [fifteen days] from the date of the decision or order, prefer an appeal to the Commissioner in such form and manner as may be prescribed :

Provided that the Commissioner may entertain the appeal after the expiry of the said period of [fifteen days] if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Omitted by Haryana Act 40 of 1976.

(4) Any person aggrieved by an order of the Collector under sub-section (1), may within [thirty days] from the date of the order, file a revision petition before the Commissioner so as to challenge the legality or propriety of such order and the Commissioner may pass such order as he may deem fit. The order of the Commissioner shall be final.

(5) Omitted by Haryana Act 40 of 1976.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may suo motu at any time call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in relation thereto as he may deem fit.

(7) Omitted vide Haryana Act No. 34 of 1980.

[(8) Notwithstanding anything contained in section 21, a person who files an appeal or a revision against the order declaring his land as surplus area and the appeal or revision filed by him

fails, shall be liable to pay, for the period he is or has at any time been in possession of the land declared surplus to which he is or was not entitled under the law, a licence fee equal to thirty times the land holdings tax, recoverable in respect of this area.]
(9) Omitted vide Haryana Act No. 34 of 1980.

Learned counsel for the respondent-State submits that the petitioner being an allottee of the land in question would be entitled to file an appeal in this case. In case, the appeal is filed within 15 days, it is submitted that the same would be entertained.

Learned counsel for the petitioner, at this stage, seeks to withdraw this writ petition with liberty to avail the alternate remedy available to him.

Keeping in view the facts and circumstances as above and the specific stand taken on behalf of the respondent-State, present writ petition is dismissed as withdrawn with liberty as prayed for. It is directed that in case, an appeal is preferred by the petitioner within 15 days of receipt of certified copy of this order, the same be entertained by the competent authority and decided in accordance with the provisions of law expeditiously and the question of limitation be considered sympathetically. It is clarified that there is no expression of opinion on the merits of the matter.

02.03.2021
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.