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

CWP-7809-1988**Reserved on: 07.10.2023****Date of decision : 17.10.2023****Dhanpat and others****.....Petitioners****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Sanjay Mittal, Advocate
for the petitioners.

Mr. Rajneesh Chadwal, AAG, Haryana.

*********RAJESH BHARDWAJ, J.**

Petitioners have approached this Court praying for issuance of a writ in the nature of Certiorari or any other writ, order or direction appropriate in the circumstances of the case for quashing the impugned order (Annexure P-4).

It has been contended by counsel for the petitioners that Sohan Lal , father of petitioners No.1 to 6 and husband of petitioner No.7 was given land on lease without payment of any lagan somewhere in the year 1962-63. He has submitted that the land which was under cultivation of Sohan Lal bore Khasra No.32/2, 4,7,8,9,10; 116/13, 14/2, 17, 18, 23, 24, 120/3/3, 4 total measuring 83 kanals 14 marlas. Thereafter, Sohan Lal applied for regularization of his possession and transfer of the land in accordance with the Press Note No.6069/R dated 17.05.1962 and the Settlement Officer vide his order (Annexure P-1) allowed in principle the transfer of the land in dispute. Thereafter, the Deputy Secretary, Rehabilitation Chandigarh vide order dated 11.09.1981 declined to

transfer the land in favour of Sohan Lal however, he was given an opportunity to file a fresh application. Aggrieved by the same, Sohan Lal filed CWP-5186 of 1981 which was dismissed by this Court vide order dated 12.03.1982. However, petitioners were given liberty to pursue the application which was ordered to be decided in accordance with law. The petitioners assailed the same by way of filing an SLP, however, the same was dismissed. In the meantime, Sohan Lal died and respondent permitted the transfer of land in favour of the petitioners on 09.12.1985 which was subsequently, registered on 26.12.1985 but Tehsildar Sales Rohtak vide his letter dated 31.07.1987 issued a notice to the petitioners to show cause why the sale deed executed in their favour be not cancelled. He has submitted that the petitioners appeared before respondent No.2 and claimed themselves to be the *bona fide* transferee but respondent No.1 cancelled the same vide impugned order dated 29.04.1988 which is totally unsustainable in the eyes of law. He has submitted that transfer was in the favour of seven persons and even if it was observed that they had inherited 4-12 Standard acres from their father, Sohan Lal, the transfer made in their favour could not be cancelled as each one of the petitioners were entitled to retain the area to the extent of 5 Standard acres. He has submitted that it has been wrongly held that father of petitioners filed the wrong affidavit declaring that he did not own any land. He has submitted that the relevant date for determining the entitlement of deceased Sohan Lal was the date when the affidavit was filed and not a subsequent date when he acquired the land. Therefore, the rejection of claim of petitioners is totally erroneous as on the date of filing of the affidavit, father of petitioners did not own any land. He has submitted that part of the land had been transferred by the petitioners in favour of Jag Ram and the same was protected under

Section 41 of the Transfer of property Act. He has submitted that the petitioner did not own and possess any other land except the land in dispute and the land inherited from their father late Sh. Sohan Lal, the individual share of each of the petitioners was less than 5 standard acres and hence the impugned order passed being totally in violation of the policy of the State dated 25.08.1981, is totally illegal and thus, deserves to be set aside.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has invited the attention of this Court to the reply filed by the State wherein it has been specifically explained that the impugned order has been passed totally in accordance with the policy of the State dated 25.08.1981 and thus the impugned order passed suffers from no illegality. He has submitted that at the time of transfer of land, Sohan Lal, predecessor-in-interest of the petitioners filed an affidavit dated 09.01.1973 that he had about 10-1/2 acres of land which was allotted to him by the Provincial Government and thus, he had no other land in Village. Thereafter, a complaint was received and the case of the predecessor of the petitioners was examined and it was revealed that Sohan Lal owned Chahi land measuring 38 kanals 02 marlas equivalent to 4-12 Standard Acres. However, as per Government instructions, the land along with own land could be transferred upto 5 standard acres. He submits that hence Sohan Lal was entitled to get 0-4 standard acres whereas 2-14 standard acres land was transferred. Hence, the excess land to the extent of 2-10 standard acres was wrongly transferred to him. The legal representatives of Sohan Lal sold land to the extent of 2 acres to Jag Ram from the land allotted to

them. He has submitted that the Tehsildar (Sales) Rohtak made reference before the Chief Settlement Commissioner, Haryana for setting aside the excess transferred land to the extent of 2-10 standard acres and after hearing both the parties, the Chief Settlement Commissioner, Haryana set aside the transfer of land except 0-4 standard acres vide impugned order dated 29.04.1988. He has submitted that the conveyance deed issued in favour of the legal representatives of the transferee was also cancelled. It is submitted that in pursuance to the order dated 29.04.1988 passed by the Chief Settlement Commissioner, Haryana, the Tehsildar (Sales) Rohtak set aside the 78 kanals 16 marlas land vide order dated 16.05.1988 and further ordered that Rs.28,000/- also be refunded to the transferee. He has submitted that the petition being devoid of any merits deserves to be dismissed.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioners before this Court are sons of Sohan Lal predecessor in interest. The case earlier pursued by Sohan Lal was considered and as evident CWP-5186 of 1981 filed by the petitioners was also dismissed by this Court vide order dated 12.03.1982 and SLP filed against the same was also dismissed by the Hon'ble Supreme Court. Thereafter, the application filed by Sohan Lal was considered in the light of policy/instructions of the State dated 25.08.1981. The relevant part of the policy dated 25.08.1981 for the appreciation of the controversies in hand read as under:-

*Haryana Government
Rehabilitation Department*

From

The Financial Commissioner, Revenue and Secretary

to Government Haryana, Rehabilitation Department

To

All the Tehsildars (Sales) in the State

Naib Tehsildar (Sales) Rewari, Sonapat and Sirsa

Memo No.2(106) II/15882-92/G.I.

Dated, Chandigarh, the 25.08.1981

*Subject: Liberalization of policy relating to disposal of surplus
Rural/Sub-urban evacuee land*

*Reference this Department Memo No.2(106) 15880-
92/Sales/1962 dated 17.05.1962 on the subject cited above.*

*2 As many of the present occupants came into possession of surplus rural
evacuee agricultural land after Kharif, 1960 and most of them are
landless tenants, small and marginal farmers and members of Scheduled
Castes, the State Government have after careful consideration of the
difficulties of the occupants taken the following decisions:-*

*(a) Those persons, who are in cultivating possession of rural evacuee
agricultural land since Kharif, 1975 or earlier may be allowed to
purchase the land subject to a maximum limit of 5 Standard acres
including their own holding. Marginal adjustments upto one standard
acres may be allowed to be made by Settlement Commissioner in
exceptionally deserved cases.*

Thus, it is apparent that as per the Government policy
nobody could get transfer of land more than 5 standard acres including
his own holding. The land measuring 91 kanals 14 marlas was transferred
in the year 1985 at the time when respondent No.4 was also owner of the
land measuring 38 kanals 02 marlas equivalent to 4-12 standard acres.
Hence as per the entitlement of the policy dated 25.08.1981, Sohan Lal
predecessor in interest of the petitioners was entitled for 5 standard acres

of land including his own and thus, the land which he was already holding i.e. 38 kanals 02 marlas was bound to be taken into consideration for allotment of 5 standard acre of land as per the terms and conditions of the policy. Thus, Sohan Lal being owner in possession of 4-12 standard acres of land was entitled for the remaining land out of 5 standard acres of land as per the terms and conditions of the policy. Thus, this Court does not find any perversity in the impugned orders passed and hence, the petition being devoid of any merits is hereby dismissed.

17.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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