

105

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

**CWP-7838-2021 (O&M)
Date of decision : 07.12.2023**

Om Parkash

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Satyam Tandon, Advocate with
Ms. Nisha Kanojia, Advocate and
Mr. Aditya Dassur, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for issuance of writ in the nature of mandamus to the respondents for allotment of alternative piece of land to the petitioner by virtue of being the LR of Bhullan son of Khaki under the Haryana Ceiling on Land Holdings Act, 1972. Further prayer has been made for issuance of direction to the respondents to make a payment of compensation to the petitioner in lieu of land allotted to Sh. Bhullan which was subsequently taken back. Further prayer has been made for directing the respondents to decide the representation dated 03.02.2020 (Annexure P-6) sent by the present petitioner.

There is a request for adjournment circulated on behalf of counsel for the petitioner and the same is declined.

Notice was issued in the present petition and reply has been filed. Learned State counsel has drawn the attention of this Court to the reply filed. He has submitted that it was Shish Ram whose land was declared surplus thereafter, the allotment of the land in dispute was made in the name of Bhullan i.e. father of the petitioner. He deposited the first installment of Rs.461.88/- on 24.06.1978. The possession of the land in dispute was given to the allottee and Mutation No.1858 was entered and sanctioned in the name of abovesaid Bhullan. Shish Ram whose land was declared surplus thereafter, filed a civil suit for declaration for challenging the order of the authorities stating therein that the land declared surplus by the State counsel of Haryana is not legally sustainable. The Civil Court vide judgment and decree dated 30.08.1983 *set aside* the order by dint of which the abovesaid land was declared surplus. Thus, out of total land of 25 kanal 12 marlas, land which was declared surplus i.e.19 kanals of land was cancelled by the Civil Court and rest 06 kanals 12 marlas of land remained in the name of allottees. Against the abovesaid decree and judgment, State of Haryana filed an appeal before the learned District Judge, however, the same was dismissed. The State of Haryana however, filed the RSA before the Hon'ble Punjab and Haryana High Court and the same was dismissed on 02.01.2012. In pursuance to the judgment and decree dated 30.08.1983, Bhullan was dispossessed from some parts of land. She filed the civil suit and the same was dismissed vide judgment and decree dated 11.10.1993. The appeal preferred by him was also dismissed and thereafter, the RSA filed bearing No.824/99 by him was dismissed vide order dated 16.01.2012. It is submitted that Bhullan i.e. father of the petitioner did not

file any SLP against the dismissal of the RSA and thus, the same attained finality. She submits that the petitioner continued in possession of the land measuring 06 kanals 12 marlas out of total land measuring 25 kanal 12 marlas. She submits that on the petition filed by the petitioner, respondents-State has already taken possession by declining the petition vide order dated 22.10.2021 which has been passed by the SDO(C)-cum-Prescribed Authority, which has been placed on record as Annexure P-7. She submits that once the State has already declined the claim made by the petitioner by passing the fresh order, he has the separate cause of action and thus, the present petition is not maintainable.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the contention raised on the petition filed by the petitioner, the SDO(C)-cum-Prescribed Authority has already taken a decision rejecting his claim by passing an order dated 22.10.2021. Thus, the petitioner has the remedy to assail the same by availing his remedies as in accordance with law. Hence, finding no merit in the present petition, the same is hereby dismissed. However, the petitioner is at liberty to avail his remedies as available to him in accordance with law.

07.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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