

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

CWP No.16952 of 2023

Date of decision : 07.08.2023

Jagtar Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S. S. Rangi, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the order dated 24.12.2013 passed by the Financial Commissioner (Revenue) Punjab, Chandigarh affirming the order of the Divisional Commissioner, Patiala Division, Patiala dated 25.05.2011 and order dated 18.02.1994 passed by the Collector (DC), Ludhiana in a case of allotment of Nazool Land, situated in the revenue limits of village Jargari, Tehsil Payal, District Ludhiana.

It has been contended by learned counsel for the petitioner that respondent No.2 was the Society registered on 02.10.1956 and the Nazool land measuring 100 Kanal 7 Marlas in Jargari village was allotted to them by the then PEPSU Government on 28.11.1956. However, as per

the Rapat Roznamcha, the possession of the aforesaid Nazool land was handed over to the society-respondent No.2 as per Rule 6 of the Nazool Land Rules 1956 and payment was to be made in installments. He submits that after paying first installment, Society became defaulted and became defunct and non functional and never maintained its accounts whatsoever. He submits that from 01.04.1968 to 28.02.1980, the possession of the Nazool land was handed over by the society to the State as per Rule 6 of the Nazool Land Rules 1956. He submits that for taking benefits of the aforesaid land and for welfare of the village, the State Government through Gram Panchayat, Jargari started leasing out the aforesaid land on Chakota on yearly basis from 1968-69 onwards and the same continued till 1979-80. He submits that after 01.03.1980, it was decided to allot the aforesaid land for cultivation on permanent basis to the Harizans of village Jargari, who were earlier taking the same on lease (Chakota). As such the predecessors of the petitioners as well as others including the then President, Vice President, Office Bearers and Members of the Society applied for the aforesaid allotment. He submits that after following the due procedure, 61 Kanal-12 marlas from the aforesaid Nazool land was allotted to the predecessors of the petitioners i.e. 37 Kanal-12 marlas of land to Niranjn Singh and 24 Kanal to Sucha Singh vide orders dated 03.03.1980. Possession of the aforesaid land was handed over vide Rapat Roznamcha No.323-24 dated 17.04.1980 by the revenue authorities. He submits that on 09.09.1985 at a belated stage, the Society preferred an appeal under Rule 14 of the Nazool Land (Transfer) Rules 1956 through

the then President of Society challenging the allotment of the land in dispute to the predecessors of the petitioners as per allotment letter dated 03.03.1980. The Commissioner accepted the appeal vide order dated 09.09.1985 and remanded the case to the Collector, Ludhiana for decision afresh. He submits that the State colluded with the aforesaid Society and the allotment file was not produced before the Commissioner, Patiala inspite of various reminders. The remand order dated 09.09.1985 was challenged by the predecessors of petitioners but the same was dismissed vide order dated 12.12.1985. The Collector, after the remand, accepted the appeal of the Society vide order dated 02.12.1987. The petitioners assailed the same by way of filing an appeal before the Commissioner, however, the same was dismissed vide order dated 23.06.1992. Aggrieved by the same, the petitioners challenged the aforesaid order before the Financial Commissioner, Punjab but the same was also dismissed vide order dated 20.04.1993 wherein the directions were issued to the Collector to review the position keeping in view the provision of the Nazool Lands, (Transfer) Rules 1956. He submits that in view of the directions, the Collector issued notice dated 24.11.1993 to the Society to show cause for defaulting the payments of installments. The Society replied that after the default, they had paid the aforesaid defaulting amount on 17.08.1992 in lump sum. He submits that these proceedings were never conveyed to the petitioners. The appeal was filed in the Court of learned Commissioner against the order of revival of the aforesaid Society passed by the Collector, Ludhiana and the appeal went up to the level of Financial Commissioner (Revenue), Punjab.

Learned Financial Commissioner remanded the case vide order dated 20.04.1993 with the observation to decide the matter afresh as per the provision. He submits that thereafter Niranjana Singh as well as LRs of late Sucha Singh filed review application dated 11.11.1994 against the order dated 18.02.1994 in the Court of Commissioner, Patiala Division but the same was dismissed illegally vide order dated 25.05.2011. He vehemently submits that the petitioner challenged the order dated 25.05.2011 before the Financial Commissioner (Revenue), Punjab by way of filing the revision and the same was illegally dismissed vide order dated 24.12.2013 which was totally in contravention to the statutory provisions and the law settled. He submits that the society stood dissolved and was not in existence as possession of the suit land was taken over by the State as per Rule 6 of Nazool Lands (Transfer) Rules 1956.

It has been submitted by learned counsel for the petitioners that the office bearers of the Society after failing to get the aforesaid Nazool land allotted to them individually started harassing and threatening the predecessors of petitioners and filed a Civil Suit no.48/1980 in the Court of learned Sub-Judge (1st Class), Ludhiana for permanent injunction but the same was dismissed vide judgment and decree dated 22.07.1981. He submits that predecessors of the petitioners also filed similar civil suit which was dismissed. However, the appeal filed against the same was allowed by the learned Additional District Judge, Ludhiana vide judgment and decree dated 15.06.1982. He submits that civil Suit filed by the Society for permanent injunction was dismissed as withdrawn on

20.11.1992. It is submitted that the Society filed the Civil Revision before this Court, which was disposed of by this Court vide order dated 07.11.1996 by observing that no interference is called for in view of the statement dated 20.11.1992 suffered by the Society and thereafter he submits that the Society forcibly took possession from petitioners on 02.10.1997. The predecessors of petitioner filed an application for restoration of possession, which was allowed vide order dated 03.11.1998 and suit filed by the predecessors of petitioner titled as **Niranjan Singh & Sucha Singh vs. Dara Singh etc.** was decided by the learned Civil Judge (Senior Division), Ludhiana vide judgment and decree dated 09.10.2003 in favour of the petitioners. The objections raised by the aforesaid Society in respect of possession of the petitioners were also dismissed by the learned Civil Judge (Senior Division), Ludhiana. Thereafter, this order was never assailed further, hence, the same attained finality. It is submitted that the possession of the suit land was forcibly taken by the Society in spite of the fact that stay orders were prevailing in favour of the petitioners regarding possession passed by the learned Civil Court and upheld by the 1st Appellate Court as well as by this Court. The Society had preferred RSA No.4105 of 2017, which is pending adjudication. He submits that it came to the knowledge of the petitioners that status quo order dated 07.08.2018 was passed in civil suit No.82, dated 11.07.2017 filed in the Court of Civil Judge (Junior Division), Payal, filed by some of the allottees of 100 Sq. yards plots from the aforesaid Nazool Lands. This fact was kept concealed from the Appellate Court while challenging the said allotment to the

predecessors of petitioners. He submits that the Society had deliberately suppressed the fact of allotment of 24 kanal of Nazool land from the learned Appellate Court and thus, the order was passed on 09.09.1985 in appeal. He has submitted that the petitioners are the rustic and illiterate villagers and thus, could not approach this Court after passing of the impugned order and thus, there is no delay or laches in filing the writ petition. He has submitted that in view of the submissions made, it is apparent that the impugned orders passed by the respondents-authorities are totally against the evidence on record and as well as the settled proposition of law, thus, deserve to be set aside. He relies upon the judgment passed by Hon'ble the Supreme Court in "***A.V. Papayya Sastry and others vs. Government of A.P. and others***", 2007(2) RCR (Civil) 431.

After hearing learned counsel for the petitioners and perusing the material on record, it is apparent that the facts which culminates from the chequered history of the case are that respondent No.2-Society namely, Scheduled Caste Co-operative Society Jargari was allotted the land on 28.11.1956 and a rozmancha to this effect was recorded by the Patwari. This allotment was upheld by various revenue authorities. The Society was shown as the cultivator of the land in the revenue record. Thereafter on 03.03.1980, the Collector Ludhiana allotted 37 Kanal 12 marla out of this land to Sucha Singh i.e. predecessor-in-interest of petitioners and 24 Kanal to Niranjn Singh. These allotments were challenged by the Society before the Commissioner, Patiala, who accepted the appeal on 09.09.1985 and set

aside these transfers and remanded the matter for fresh decision to the Collector. The revision was filed against the order but was dismissed by the Financial Commissioner vide order dated 02.12.1985. In pursuance to the remand order, the District Collector on 02.12.1987 held that the allotment of the Society could not have been cancelled without following the procedure laid down under Rule 9-A (ii) of the Nazool Lands (Transfer) Rules 1956. Thereafter, notice was issued to the Society, who deposited the entire amount due on 17.08.1992. The order of Collector was challenged in appeal, which was dismissed by the Commissioner on 23.06.1992. The revision against the same was also dismissed by the then Financial Commissioner on 20.04.1993. However, learned Financial Commissioner directed the Collector to pass a specific order whether the Society continued to be allottee of the land and if so, it was directed that the amount deposited by the petitioner should be refunded to them. In pursuance to the remand order, the Collector held on 18.02.1994 that since the land had been allotted to the Society, the same could not have been cancelled and as the Society had paid the entire amount of the land, the allotment of the land in favour of the allottee was valid and appeal against this order was dismissed by the Commissioner on 25.05.2011. As reflected from the order, these orders of the Collector and the Commissioner were challenged before the learned Financial Commissioner. Learned Financial Commissioner duly heard both the sides and appreciated the record. It is apparent from the record that the allotment of land in favour of the petitioners was made in March, 1980 without cancelling the earlier

allotment in favour of the respondent-Society. Thus, the land which was already allotted by the PEPSU Government in 1956 in favour of the society was subsequently allotted in part of the same to the petitioners without cancelling the earlier allotment in favour of the respondent-Society. Though the society had defaulted in making the payment but the same was never cancelled by the State. This is also not out of place that even after default the Society had paid the entire amount due, which was duly accepted by the respondent-State and thus, the allotment of the land made in favour of the society was duly ratified by the State while accepting the payment due towards it. Hence, the allotment made in favour of the petitioners without cancelling the allotment already made to the society would be beyond any comprehension of law. Thus, the petition filed also suffers from delay and latches.

It is also not out of place to mention that the impugned order passed by the learned Financial Commissioner which was the last order is dated 24.12.2013, thus, the present petition has been filed by the petitioners after a gap of 10 years. Though, learned counsel for the petitioners has submitted that there was a fraud committed with the petitioners and they being an illiterate persons were restrained from availing their further remedy, however, the same is without material on record.

There is nothing on the record to substantiate the arguments raised by learned counsel for the petitioners in assailing the impugned orders after 10 years. Hence, the petition filed suffers form delay and

latches. There is no dispute regarding the law laid down by Hon’ble the Supreme Court in *A.V. Papayya Sastry’s case (supra)*, however, in view of the facts and circumstances of this case, this Court finds the same to be distinguishable. Hence, this Court does not find any perversity in the impugned orders passed and thus, the same being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

07.08.2023

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