

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

**CWP-10969-2017 (O&M)  
Date of decision: 13.09.2023**

Jai Parkash

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Ashok Sharma Nabhewala, Advocate,  
for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Mr. Jagraj Singh, Advocate for  
Mr. Arav Gupta, Advocate for respondent No.4.

Mr. Y.D. Kaushik, Advocate, for respondent No.5.

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**RAJESH BHARDWAJ, J.**

**CM-15357-CWP-2023**

For the reasons mentioned in the application, the same is allowed.

Counter reply alongwith Annexures P-11 to P-18 are taken on record.

**Main case**

Petitioner has approached this Court praying for issuance of direction to the respondents to execute sale deed in respect of adjoining area of 219 square yards attached to Plot No.5K/111 (305 square yards) and adjoining area of 219 square yards in respect of plot No.5K/112 (128 square yards), NIT Faridabad in possession of the petitioner in terms of the judgment passed by LPA Bench in LPA-835-2014, decided on 11.11.2014, State of Haryana vs. Lalita Mehta and others.

Learned counsel for the petitioner has submitted that plot No.5IK/111 (305 square yards), NIT Faridabad was allotted to Mohar Singh in

Government auction by the Rehabilitation Department on 23.04.1966 and a sale deed was executed by the Government and thereafter, Plot No.5K/111 (128 square yards) was sold in favour of Sudesh Kumari and others on 23.12.1966 and thereafter, transferred in favour of Shanti Devi wife of Asa Nand i.e. mother of the petitioner vide decree passed by Senior Sub Judge, Faridabad. He has submitted that Rehabilitation Department allotted Plot No.5K/112 in favour of Gurditta son of Lakshmi Chand and thereafter, it was purchased by Asa Nand i.e. the father of the petitioner, by way of sale deed dated 30.10.1979. He submits that the original allottee of the Plot No.5K/111 was given final notice, who offered to purchase additional area of 219 square yards in respect of the said plot on 04.06.1984. It is submitted that Chandgi Ram and others including Mohar Singh, filed CWP-5155-1998 in this Court for allotment of adjacent area in terms of Government Policy and in this petition, Shanti Devi (mother of petitioner) was impleaded as petitioner No.57 and Asa Nand (father of petitioner) was impleaded as petitioner No.58. It is submitted that the writ petition was allowed vide order dated 03.06.1991 and the State filed LPA-698-1992 against the order dated 03.06.1991, which was decided by the Division Bench of this Court permitting the respondents therein to deposit the amount demanded by Tehsildar (Sales) alongwith interest @ 9% per annum vide order dated 23.01.2014. It has been further submitted by learned counsel for the petitioner that in view of the order passed by this Court on 06.02.2017 (Annexure P-9) in CWP-8212-1994 titled as Lalita Mehta and others vs. State of Haryana and others and the order dated 23.01.2014 (Annexure P-7) passed in LPA-698-1992, the petitioner is entitled for execution of the sale deed of adjoining area of 219 square yards in respect of Plot No.5K/111. He submits that in the writ petition and the LPA as mentioned above, the petitioner has

acquired the right of execution of the sale deed as prayed for, however, the respondent-authorities have ignored the same and thus, be directed to execute the sale deed.

On the issuance of notice to the respondents, respondent-State and respondent No.4 have filed their respective replies.

Learned State counsel has submitted that written statement filed by the State has described the complete facts and circumstances of the case and in the light of the same, there is no merit in the present petition for issuance of direction as prayed for. She has submitted that as per record, in the present case, property No.5K/111 measuring 305 square yards and property No.5K/112 total measuring 305 square yards situated at NIT, Faridabad, are involved. She submits that property No.5K/111 was allotted to Mohar Singh by the Central Government on 13.01.1966 and property No.5k/112 was allotted to Gurditta on 18.10.1979 by the Central Government and these properties as alleged by the petitioner, were purchased by the family of the petitioner and he is claiming the adjacent land situated with these two properties. It is submitted that after the acquisition of the land by the State of Haryana in the year 1981, some pieces of adjacent and correctional land were found, which could not be disposed of independently, accordingly, vide policy dated 28.02.1984, 11.07.1988, 11.08.1988 and 19.07.1989 were framed by the Rehabilitation Department. She submits that in view of the same, an offer was given to Mohar Singh i.e. original allottee for transfer of adjacent land measuring 219 square yards of the property No.5K/111 vide memo dated 04.06.1984. Thereafter, CWP-5155-1988 was filed by some of the allottees to whom offers were made under the aforesaid policies, in which father and mother of the petitioner were also impleaded as petitioners No.57 and 58. She has submitted that initially offer

was made to the original allottee of the property No.5K/111 Mohar Singh and the petitioners had purchased the property from Mohar Singh and the same is in his possession. It is submitted that conveyance deed dated 11.10.2018 was also issued in favour of the petitioner. It is submitted that with regard to the adjoining land to the property No.5K/112, no offer was made to the original allottee of the property No.5K/112 for transfer the adjacent land as per the aforesaid policies. It is further submitted that as per record neither the original allottee of the property No.5K/112 nor the petitioner have applied for the transfer of adjacent land under the aforesaid policies and therefore, the petitioner would not claim the adjoining land of property No.5K/112. It is also submitted that the petitioner was not in possession of this land. She submits that now the property involved in the present case is covered under the provisions of Haryana Evacuee Properties (Management and Disposal) Act, 2008, Amended Act, 2010 and the Haryana Evacuee Properties (Management and Disposal) Rules, 2011 framed for disposal of the evacuee rural/urban evacuee lands and properties. She has submitted that as per Rule 10 of Rules 2011, an occupant or his successor-in-interest, who was in possession of the land from 01.01.2001 or earlier could apply to the Tehsildar (Sales) concerned alongwith relevant documents in support of his claim within a period of six months from the date of notification of these Rules. Thus, in the application filed under Rule 10 of the Rules 2011, the applicant-occupant is supposed to prove his possession from 01.01.2001 or earlier and if he is found eligible then the Tehsildar (Sales) would pass speaking order in accordance with law. She has vehemently contended that in view of the prevailing situation, the petitioner was only entitled for the transfer of adjacent land of property No.5K/111 measuring 219 square yards for which conveyance deed dated 11.10.2018 was

also executed. She further submits that the petitioner is not entitled for the transfer of adjacent land to property No.5K-112 as no offer was made to the original allottee of the property.

Learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that the lease deed dated 15.02.1991 was executed between Charan Dass and respondent No.4 Shamshuddin, whereby, respondent No.4 had taken the possession of the said shop vide said lease agreement and since then he was in possession of the said shop over the adjacent land. He has submitted that Charan Dass died on 16.10.2006 leaving behind his five legal representatives. He submits that one of the legal representatives of Charan Dass, namely, Tara Bhatia entered into an agreement to sell dated 13.09.2012 with respondent No.4 for the sale of the said shop over the adjacent land and the entire sale consideration of the shop had been paid. He submits that a suit for specific performance is pending adjudication before the Court of Civil Judge (Junior Division), Faridabad, thus, the petition filed by the petitioner is totally without any merit and hence, deserves to be dismissed.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that the case in hand has a chequered history. The petitioner on one side praying for issuance of direction for execution of sale deed in respect of adjoining area of 219 square yards attached to plot No.5K/112, whereas, the respondent-State has vehemently opposed the same and has given detailed background of the case stating that no offer has been given by the State to the original allottee regarding the sale of the adjacent land, neither in favour of the original allottee nor in favour of the petitioner. Besides

this, the relevant provision applicable in the facts and circumstances of the case are under the Compensation and Rehabilitation Act, 1954 for which remedy lies before the Tehsildar by way of filing petition. As per mandate of the Act, claimant has to prove his case for any such entitlement. Counsel for respondent No.4 on the other hand has submitted before this Court that he is in possession of the disputed property and a suit for specific performance has also been filed by him, which is pending adjudication. Keeping in view the overall facts and circumstances of the case, it is apparent that the case is full of disputed question of facts, which cannot be adjudicated in this writ petition and hence, the prayer made by the petitioner is beyond the jurisdiction of the writ Court. The judgment relied upon by the petitioner did not deal with the issues as raised before this Court. In such a situation, only remedy lies with the petitioner is to approach the appropriate authorities for the redressal of his grievance. Thus, this Court does not find any merit in the arguments raised by counsel for the petitioner for issuance of direction for execution of sale deed when the issues raised are required to be proved by leading evidence. Hence, the present petition is disposed of with liberty to the petitioner to avail his alternative remedy as available to him under the law by way of filing an appropriate petition before the appropriate Court/authority concerned.

( RAJESH BHARDWAJ )  
JUDGE

13.09.2023  
sharmila

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |