

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

LPA-41-2023

Date of Decision: 16.01.2023

Om Devi

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Naveen Sharma, Advocate,
for the appellant.

G.S.SANDHAWALIA, J.

The present appeal has been filed by the original writ petitioner whose writ petition i.e. CWP No. 25260 of 2022 was dismissed by the learned Single Judge on 02.12.2022. The learned Single Judge, while noting the contention of counsel for the writ petitioner, had noticed that copy of the order of the cancellation had not been made available but the same had not even been applied for and, therefore, the claim for the same was rejected on the basis that the present appellant was claiming to be an allottee of surplus land.

Counsel for the appellant has tried to convince us that the letter of cancellation of the allotment order was denied as such and, therefore, the learned Single Judge was not correct in dismissing the writ petition and it was argued that only with the factum of filing of COCP No. 878 of 2021 by her for the first time it had been revealed that the allotment had been cancelled.

We have perused the paper book and are of the considered opinion that there is no tenable reason to interfere in the order of the learned Single Judge. The writ petition was filed seeking directions to deliver and

hand over the physical and actual possession of the land in question which is stated to have been allotted on 11.03.1980 (Annexure P-2) regarding which the writ petitioner is stated to have deposited one time amount of the price of all installments on 24.10.2003 after a period of 23 years (Annexure P-3). Resultantly, directions were sought to decide the representation dated 08.10.2022 (Annexure P-1) wherein the claim was that the cancellation done was behind her back and the order dated 10.07.1980 be withdrawn and proceedings be initiated against all erring officials. Reference was made to the stand of the State that they had admitted that land had been allotted to her and the order of delivery of possession was passed on 15.07.1985 in appeal decided by the Additional District Judge, Rewari on 25.04.2006 (Annexure P-6) wherein, the present appellant was arrayed as respondent-defendant No.3.

A perusal of the allotment letter (Annexure P-2) would go on to show that 13 kanals 16 marlas of land was allotted in village Malpura subject to the condition that the first installment of Rs.350/- be deposited within a period of 30 days from the date of taking possession and the next 9 installments of Rs.2,453.15/- were to be paid thereafter alongwith interest @ 5%. As per Clause 3 of the letter of allotment, failure to deposit first installment within the specified period would lead to the allotment being cancelled without any further notice. The relevant Clause Nos.2 and 3 read thus:-

“2. The total price of land and the building structure, tube well, water course including its subsidiaries or crops thereon is Rs. xxxxxx This amount is to be deposited in annual equated instalment as indicated below:-

a) The first instalment of Rs.350/- shall be deposited within 30 days of the date of taking

possession.

b) The next nine instalments each amounting to Rs.2453-15+15% intt. Shall be deposited on or before the xxx.

3. In case he fails to take possession of the allotted land within a period of seven days of the date when the same is offered to him or fails to deposit the first instalment within the specified period the allotment shall be cancelled without any further notice.”

Nothing has been shown to us that the first installment was deposited within 30 days of taking possession which is now being claimed. For the first time on 26.02.2007, directions were taken in CWP No. 2871 of 2007 (Annexure P-8) by a Division Bench of this Court that there was a representation dated 06.06.2006 pending and the same be decided as per law. It was specifically noticed by the co-ordinate Bench that the case as such was that “possession of the land was never transferred and on account of the litigation of the big land owner having coming to an end, directions had been sought for”.

Resultantly, the order dated 29.06.2007 were prepared that 13 kanals and 16 marlas of land allotted to Om Devi had been cancelled in pursuance of the enquiry to which the lady was not found entitled on the basis of the income criteria. In COCP No. 878 of 2021 (Annexure P-10), reply was filed by the Sub Divisional Officer placing reliance upon the said proceedings to submit that the compliance had been done of the earlier order on the basis of the representation dated 06.06.2006 and there was no willful disobedience as such and the proceedings dated 29.06.2007 were appended. Resultantly, the contempt petition was disposed of with liberty to challenge the order dated 10.07.1980 and, thus, the writ petition as such came to be filed. The

relevant portion of the order passed in the contempt petition reads thus:-

“[18] In the circumstances, the petition for initiating proceedings against the respondent under Section 12 of the Contempt of Courts Act, 1971/Article 215 of the Constitution of India, is not maintainable and is accordingly dismissed. No order as to costs.

[19] At this stage learned Counsel contends that in view of the order of cancellation of allotment of land of petitioner No.1 never having been intimated to her, liberty be granted to petitioner No.1 to challenge order of cancellation of the year 1980.

[20] Learned DAG vehemently disputes non supply of order but states that he has no objection to the prayer of learned counsel for the petitioners subject to petitioner No.1 explaining the reasons for delay in challenging said order in accordance with law. Needless to mention, it would be open to petitioner No.1 to take out appropriate proceedings in accordance with law for challenging order of cancellation of allotment of land stated to have been passed in the year 1980 by explaining the delay.

[21] Accordingly, in view of the position noted above while dismissing the instant petition, liberty as prayed for is granted to petitioner No.1 to take out proceedings for challenging order of cancellation of allotment of land stated to have been passed in the year 1980 by way of appropriate proceedings in accordance with law by explaining the delay in seeking redress in respect thereto.”

The petitioner has also appended communication dated 27.06.2007 (Annexure P-13) addressed to the Principal Secretary, Revenue & Disaster Management Department from the Sub Divisional Officer (Civil)- cum-Allotment Authority, Rewari wherein, it has been mentioned that the

land which had been allotted on 14.10.1976 was cancelled vide order dated 10.07.1980 and allotted to one Mir Singh on 30.03.1995 and that possession was never given to her which is also addressed to her.

A perusal of the representation dated 06.06.2006 (Annexure P-7) which was allegedly decided, would go on to show that there was an admission by the present appellant that she had not received the compensation of the above said land and that she had paid the installments since 23.10.1983 (sic 2003). She also admitted that the land was allotted in the name of Mir Singh, which was cancelled later on.

Thus, from the above sequence of events, it would be clear that the appellant has neither been delivered the possession as such of the land in question and nor she deposited the amount at any point of time till 24.10.2003. For the first time after 23 years, she raised dispute in the year 2007 on the strength of a representation dated 06.06.2007 which was disposed of while rejecting her claim. In our considered opinion, a person who has slept over her rights for such a long period could not thereafter put forth a case that physical possession be granted to her on the basis of the said allotment letter considering the fact that she had not even admittedly deposited a penny for the long 23 years. The deposit on 24.10.2003 also goes on to show that only one installment of Rs.2,945/- has been deposited whereas as per the certificate of allotment, there were 9 installments of Rs.2,453/- plus the amount of Rs.350/- which was the first installment.

The said narration of events would go on to show that the communication dated 27.06.2007 was also addressed to the appellant herein informing her about the cancellation as such. She chose not to take any steps and it was only on 10.07.2020 (Annexure P-9), legal notice as such was

served referring to the earlier representation dated 06.06.2006 and seeking delivery of actual physical possession. Thus, there was again inordinate delay of 13 years in raising any claim and the writ petition was filed after more than 2-1/2 years thereafter which goes on to show the conduct as such of the appellant, who has apparently taken a chance for litigation and had never been vigilant enough at three stages.

In such circumstances, we are of the considered opinion that claim as such at the belated stage was not made out and there is no reason as such to issue any writ of mandamus for a dispute for which the cause of action had long expired.

Resultantly, we do not find any ground to entertain the present appeal for the above said reasons also and the same stands dismissed in *limine*.

(G.S. SANDHAWALIA)
JUDGE

16.01.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No