



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11990-2001 (O&M)
Date of decision :12.12.2024

AJIT SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER, REVENUE, PUNJAB
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

Mr. Sunil Chadha, Senior Advocate assisted by
Mr. Raghav Chadha, Advocate
for respondents No.5 to 16.

HARSH BUNGER, J. [ORAL]

Petitioner (Ajit Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari* for quashing the impugned order dated 29.05.2001 (Annexure P-9) passed by respondent No.1-Financial Commissioner, Revenue, Punjab.

2. Briefly, one Hira Nand son of Rura Mal, was allotted land to the extent of four and a half units (3K - 1M), comprised in *Khasra no.565* in Village Jamalpur, Tehsil Phagwara, District Kapurthala, vide an allotment letter dated 03.01.1994 (Annexure P-3).

3. It is the case of the petitioner that said HiraNand (allottee) executed a 'General Power of Attorney' dated 13.12.1993 in favour of two persons namely, Satish Kumar (respondent No.4) and Ajit Singh son of Lachhman Singh, to take steps for the allotment of land and also for taking possession of the allotted land and to sell the land etc. It is further stated that said Hira Nand has executed another 'Special Power of Attorney' before the Notary Public on 23.12.1993 (Annexure P-5) in favour of respondent No.4-Satish Kumar, who on the basis of the afore-said 'Special Power of Attorney', got the allotment of afore-said 3K-1M area and also took physical possession thereof. Thereafter, the afore-said allotted land was sold to the petitioner for a sum of Rs.1,15,000/- by respondent No.4-Satish Kumar by acting as a 'General Power of Attorney' of Hira Nand, vide Sale Deed dated 17.02.1994 (Annexure P-7), regarding which a Mutation No.1552 was also sanctioned.

4. It transpires that a petition under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 was filed by respondents No.5 to 16, which came to be allowed by learned Financial Commissioner (Revenue), Punjab, vide order dated 29.05.2001 (Annexure P-9); whereby the allotment of land in favour of Hira Nand was set aside.

5. Feeling aggrieved against the afore-said order dated 29.05.2001 (Annexure P-9) passed by the learned Financial Commissioner (Revenue), Punjab, the present writ petition has been filed before this Court.

6. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

7. In the present case, the allotment made in favour of the predecessor-in-interest of the petitioner namely, Hira Nand came to be

cancelled by the learned Financial Commissioner, vide order dated 29.05.2001 (Annexure P-9), by holding as under :-

“I have carefully examined the records and have heard the Ld. Counsel of the parties. From the records, it is noticed that Goshwara allotment was issued in the name of Hira Nand S/o Rura Mal on 8.8.1984 regarding his entitlement for allotment of land measuring nine and half units and the same was sent to Managing Officer, Kapurthala for allotment of land. The Managing Officer proceeded to summon Hira Nand but he did not appear in person before Tehsildar-cum-M.O. Kapurthala for many years. On 1.7.1992, the case of allotment was transferred to Tehsildar-cum-M.O. Phagwara not at the instance of Hira Nand but at the instance of Jagmohan Singh son of Sadhu Singh as Special Attorney of Kishen Chand who claimed himself to be General Power of Attorney of Hira Nand. The Tehsildar-cum-Managing Officer, Phagwara also took the proceedings to summon Hira Nand but he never appeared in person. Satish Kumar who became his alleged attorney in December 1993 appeared before Tehsildar Phagwara for allotment of land. On 3.1.994 a “parchi” allotment for four and half units was issued by Tehsildar-cum-M.O. Phagwara whereby Hira Nand was allotted 3 kanals 1 marlas of land bearing Khasra No.565 in village Jamalpur Tehsil Phagwara. Here also as per report dated 7.1.1994 the so called “possession” of land was delivered to Satish Kumar s/o Diwan Chand, special attorney of Hira Nand. It is significant to note that during the entire proceedings running over ten years Hira Nand allottee never appeared on the scene.

8. *A careful perusal of Zimini orders, a detailed reference to which have been made in the earlier part of this order, manifestly shows that the identity of Hira Nand in whose favour the allotment was made*

could not be established at any stage of time. He never appeared either before Tehsildar-cum-M.O. Kapurthala or before the Tehsildar-cum-M.O. Phagwara and the allotment of land measuring four and half units was obtained by his special attorney Satish Kumar. In the present case General Power of Attorney dated 13.12.1993 purporting to have been executed by Hira Nand in favour of Satish Kumar s/o Diwan Chand and Ajit Singh s/o Lachhman Singh has been produced. There is another unregistered Special Power of Attorney in the allotment file of Managing Officer-cum-Tehsildar which purports to have been executed by Hira Nand in favour of Satish Kumar on 23.12.1993. In the presence of General Power of Attorney dated 13.12.1993 in favour of Satish Kumar and Ajit Singh, there was absolutely no occasion for executing another special power of attorney in favour of Satish Kumar alone ten days thereafter on 23.12.1993. Unfortunately, Satish Kumar and Ajit Kumar did not appear in these proceedings to remove this confusion and the counsel who originally appeared for Satish Kumar also stopped coming. However, these powers of attorney further strengthen the doubts regarding the identity of Hira Nand who remained absent in the entire proceedings and never came to the forefront. As the attorneys, namely Ajit Singh s/o Lachhman Singh and Satish Kumar also felt shy of appearing in the proceedings despite the fact that Satish Kumar had transferred the land measuring 3 kanals 1 marla in favour of Ajit Singh S/o Rattan Singh respondent No.4 through registered Sale Deed dated 17.2.1994, the question marks raised above remained unanswered.

9. *All this goes a long way in demolishing the claim in the name of Hira Nand for allotment of land. In the result the goshwara for allotment of nine and half units of land is cancelled thereby setting aside the allotment*

of land measuring four and half units. The Deputy Commissioner Kapurthala is directed to make further inquiry regarding the position of the remaining land measuring 5 units and take appropriate steps for cancellation of that land, in the event of the same having been allotted.

The same malady afflicts the transfer of land by so called attorney of Hira Nand viz. Satish Kumar in favour of Ajit Singh vide registered sale deed dated 17.2.1994 promptly after allotment. As the credentials and identity of Hira Nand have not been established, the vendee Ajit Singh s/o Rattan Singh cannot be treated as a bonafide purchaser with any sketch of imagination. He is rather a privy to the entire manipulation. As per report No.82 dated 7.1.94, the “possession” was shown to have been delivered to Satish Kumar son of Diwan Chand, Special Attorney of Hira Nand and on 17.2.1994 the property was promptly shown to have been sold by the same Satish Kumar to one Ajit Singh S/o Rattan Singh for 1,15,000/-. The sale deed mentions that the vendor and the vendee had entered into an Agreement for sale on 4.1.1994 i.e. prior to vendor receiving possession, and that the entire consideration had already been received by the vendor. No exchange of money took place before the “sub-Registrar”. Thus the transaction regarding sale turns out to be a sham transaction. Evidently in collusion with the revenue authorities Satish Kumar manipulated the report regarding the possession during the subsistence of injunction the petitioners had obtained against their dispossession in the Civil Suit filed by them which eventually culminated in the order dated 8.4.1994 of the Hon’ble Punjab and Haryana High Court as referred to in para 2 (supra). The proceedings regarding delivery of actual possession of land to Satish Kumar also appear to be fake and fictitious as the petitioners had succeeded

in getting injunction against their dispossession from the land in dispute except in due course of law. In the result the claim of Ajit Singh vendee stands completely obliterated. It follows that the vendee is an accomplice in the dubious transaction of sale and cannot claim to be a genuine vendee. It is evident that he had got the sale deed executed knowing fully well the risk involved in such a transaction. Otherwise, also, the moment the claim of Hira Nand for allotment is set aside, the sale deed purporting to have been executed by his so-called attorney is rendered null, void and infructuous.

10. As regards the claim of the petitioners, it is evident that they are in illegal possession of land measuring 3 kanals and 1 marla. No doubt they have obtained injunction from the Civil Court against their dispossession except in due course of law but this injunction only recognizes their possession and does not confer any right for the allotment of land in their favour. At no stage of time had these petitioners staked their claim for allotment of the land in dispute in pursuance of Govt. policy and instructions. They have been enjoying the fruit of the land by continuing in illegal possession by paying no rent to the State Govt. Therefore they have no right to continue in possession of land on the basis of their long possession. Accordingly, the land is ordered to be sold in open auction by giving a notice to the petitioners. The Deputy Commissioner, Kapurthala is directed to take steps for recovery of damages for use and occupation of the land measuring 3 kanals 1 marlas from the petitioners for the period of their respective illegal possession of the land.”

8. A perusal of the above-extracted findings returned by the learned Financial Commissioner, would indicate that the identity of so called allottee-Hira Nand was never established on record and neither said

Hira Nand appeared in person before the concerned authorities. It has

further been observed that even the so-called attorney holders namely, Satish Kumar and Ajit Singh, never appeared in the proceedings. It has also come on record that the possession of the allotted land was taken by Satish Kumar vide *Rapat No.82* dated 07.01.1994 and even prior to the date of taking over the possession of the allotted land, an Agreement for Sale was already executed between Satish Kumar and the present petitioner on 04.01.1994, which was followed by the execution of a Sale Deed dated 17.02.1994. The Sale Deed is stated to be executed for a sale consideration of Rs.1,15,000/-, however, the passing of the sale consideration by the present petitioner to the so-called vendor, has not been proved on record. Even before this Court, nothing has been shown that the sale consideration for the land allotted in favour of Hira Nand, had actually passed on by the petitioner to his so-called vendor namely, Satish Kumar, who was acting as the attorney of Hira Nand.

8.1 Learned counsel for the petitioner has failed to dislodge the observations/findings returned by the learned Financial Commissioner by referring to any material whatsoever.

9. Considering the totality of circumstances, I do not find any illegality or perversity in the findings returned by the learned Financial Commissioner.

10. In view of the above discussion, the present writ petition fails and the same is, accordingly, dismissed.

11. All pending applications (if any) shall also stand closed.

December 12, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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