



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9173-1997 (O&M)
Date of Decision: 28.11.2024

GURBACHAN SINGH AND OTHERS

...Petitioners

Versus

FINANCIAL COMMISSIONER, APPEALS, PUNJAB,
CHANDIGARH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naresh Prabhakar, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

Mr. Manish Bansal, Advocate
for Mr. Davinder Singh Khurana, Advocate
for respondent No.3.

Mr. P.S. Chahal, Advocate
for Mr. G.S. Nagra, Advocate
for respondents No.4 to 7.

HARSH BUNGER, J.

Petitioners have filed the present writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *Certiorari*, for setting aside the orders dated 09.08.1990 (Annexure P-4) and 07.05.1996 (Annexure P-5) passed by the learned Financial Commissioner (Revenue), Punjab.

A further prayer has been made for modification of order dated 08.08.1995 (Annexure P-6) passed by the learned Financial Commissioner (Revenue), Punjab.

2. Briefly, the petitioners claimed that they had land holding in Village Qilla Didar Singh, District Gujranwala in West Pakistan, out of which, about 18 acres was their self owned land and they purchased another 61 kanals of land on 19.03.1947 from respondent Nos.2 and 3, herein namely, S/Sh. Avtar Singh and Mahal Singh sons of Sh. Bishan Singh. It is the case of the petitioners that as regards their self owned land, their claim was duly verified; however, as regards their purchased land to the extent of 61 kanals, the same was not added to their land account. It is stated by the petitioners that in lieu of the afore-said 61 kanals of land (which was purchased by the petitioners from said Avtar Singh and Mahal Singh, in West Pakistan), no land was allotted to them in India, rather the allotment of land was made to their vendor namely, S/Sh. Avtar Singh and Mahal Singh.

2.1 Petitioners claimed that on an application moved by them before the Re-habilitation authorities, the record was compared by the concerned authorities and the afore-said sale transaction made by respondents No.2 and 3 in favour of the petitioners was testified, however, no additional allotment of area was made in their favour.

2.2 According to the petitioners, they applied on 25.08.1970 for allotment of additional area in lieu of 61 Kanals of land purchased by them from respondents No.2 and 3; which was dealt with by the then Managing Officer (land allotment) and he made a further reference to the Chief Settlement Commissioner on 30.10.1972 for cancelling 3-12 S.A. of land held by respondents No.2 and 3, in lieu of 61 Kanals of land.

2.3 It appears that the Chief Settlement Commissioner, vide order dated 17.01.1973 (Annexure P-1) cancelled 3-12 S.A. from the names of

respondents No.2 and 3, in the following manner :-

- i. 1-6¼ S.A. from Village Krari (Hadbast No.112);*
- ii. 2-5¾ S.A. from Village Nawanpind, Tehsil and District Jalandhar;*

Apart from cancelling the afore-said area from the names of respondents No.2 and 3, the Chief Settlement Commissioner further remanded the case to the Managing Officer, who issued a cancellation order dated 24.03.1973 (Annexure P-2).

2.4 It transpires that respondents No.2 and 3 had partly sold of their lands, which were allotted to them in Village Krari and Nawanpind.

2.5 On receipt of the cancellation orders, the vendees of Village Krari namely, Inderjeet Singh and Malla Singh, filed an application for setting aside the ex-parte order before the Chief Settlement Commissioner, which was dismissed. Thereafter, Inderjeet Singh and Malla Singh, preferred a petition under Section 33 of the Displaced Persons (Compensation and Re-habilitation) Act, 1954(in short 'the 1954 Act'), which was allowed and the matter was remanded to the Managing Officer for fresh decision.

2.6 As per the own pleaded case of the petitioners, one Ram Parkash of Village Krari filed a separate application for setting aside the ex-parte order passed by the learned Chief Settlement Commissioner, which was dismissed; however, on a further petition filed before the learned Financial Commissioner, an order was passed for re-decision of the case. It is also stated that the present respondents No.4 to 7 had also purchased land from respondents No.2 and 3 in Village Nawanpind and they also filed a petition for setting aside the order dated 17.01.1973 (Annexure P-1), which was allowed on 16.01.1978.

2.7 It is the petitioners' case that the matter stood re-opened, whereupon, the learned Managing Officer re-iterated the earlier reference requesting the learned Chief Settlement Commissioner, to cancel the excessive land held by respondents No.2 and 3 as against 61 Kanals of land. It appears that the learned Chief Settlement Commissioner passed an order dated 08.05.1990 (Annexure P-3) whereby although, it was held that respondents No.2 and 3, herein sold 61 kanal area to the present petitioners, therefore, to that extent, the area held by respondents No.2 and 3, herein was over and above their entitlement and the same was, accordingly, cancelled. However, the claim of the petitioners for allotment of land was declined by holding that the claim made by the petitioners in the year 1970 was time barred. The relevant extract of order dated 08.05.1990 (Annexure P-3), *ibid* reads as under :-

“4. I have given my thoughtful consideration to the arguments advanced by the learned counsel for the parties. From the pleadings made before me, one thing is undisputed that 61 kanals area had been sold by Respondent No.1 in favour of Respondent No.2. Therefore, area to the tune of 3-12 SAs is being held by Respondent No.1 over and above their entitlement. Accordingly, the reference is accepted and proprietary rights with respect to the excess area measuring 3-12 SAs, as detailed in para 1 of my order are hereby cancelled. From the perusal of the record, I find that the 'Mutalba Claim' filed by Sarvshri Gurbachan Singh etc. for 26 acres did not disclose that the purchased area had been included in it. Therefore, it cannot be said that Mutalba Claim had been filed by Respondent No.2 in respect of the disputed land. Further, I am in agreement with the learned counsel for Respondents No.1 & 3 that the application dated 25-8-1970, made for the first time

by respondent No.2 for the disputed area was hopelessly time barred and their case is hit by the provisions of Rule 67(A) of the D.P. (C&R) Rules, 1955. It is accordingly ordered that the excess cancelled area be put to compensation pool and then disposed of strictly in accordance with the law/rules.”

2.8 Being aggrieved against the afore-said order dated 08.05.1990 (Annexure P-3), the petitioners preferred a petition under Section 33 of the 1954 Act, which was also dismissed by the learned Financial Commissioner (Appeals), Punjab vide order dated 09.08.1990 (Annexure P-4), by holding as under :-

“I have heard the ld. Counsel for the petitioners at length and have perused the copy of the order/record appended with the petition. There is no dispute that 61 kanals of land was sold by Avtar Singh, Mehal Singh to the petitioners in Pakistan before partition of the country. Being unsatisfied claimant they should have submitted their claims before 31.12.1963. No application existed in the record and the application given in the year 1970 is definitely time barred. There is no force in the contention of the ld. Counsel for the petitioners that they had filed Matalaba Claim in the year 1948 and as such, Rule 67-A of the Rules, 1955 is not applicable. I have perused the copy of Matalaba Claim wherein 26 acres of land has been mentioned. The petitioners failed to indicate whether the land purchased by them in Pakistan had been included in the Matalaba Claim or not? The submission of application in 1970 is time barred. As such, no case is made out for my interference and the petition is dismissed in limine.”

2.9 It appears that in the year 1995, the petitioners filed a review application before the learned Financial Commissioner, seeking review of

order dated 09.08.1990 (Annexure P-4), which was dismissed vide order dated 07.05.1996 (Annexure P-5), being not maintainable

2.10 It is noticeable that the order dated 08.05.1990 (Annexure P-3) was also challenged by original respondents No.4 to 7, herein by filing their independent petition under Section 33 of the 1954 Act, however, the same was also dismissed vide order dated 08.08.1995 (Annexure P-6).

2.11 In the afore-mentioned facts and circumstances, the petitioners have filed the present writ petition before this Court, for the relief/s, as noticed here-in-above.

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

4. In the present case, the claim of the petitioners for allotment of additional land in lieu of 61 kanals of land allegedly purchased by them from original respondents No.2 and 3, herein in West Pakistan; was declined by the authorities below, primarily on two grounds :-

(a) the claim submitted by the petitioners for 26 acres did not disclose that the purchased area had been included in it;

(b) the application dated 25.08.1970 submitted by petitioners for allotment of additional land was hopelessly time barred and their case is hit by the provisions of Rule 67(A) of the Displaced Persons (Compensation and Re-habilitation) Rules, 1955 (in short 'the 1955 Rules').

5. Rule 67(A) of the 1955 Rules, reads as under :-

“67-A. Compensation to displaced persons from West Punjab etc. in respect of agricultural land - Notwithstanding anything contained in this Chapter a displaced person from West Punjab or displaced person who was originally domiciled in the undivided Punjab but who before the partition of India had settled in North West Frontier Province, Baluchistan, Bahawalpur or Sind, whose verified

claim in respect of agricultural land has not been satisfied or has been satisfied only partially by the allotment of evacuee land under the relevant notification specified in section 10 of the Act shall not be paid compensation in any form other than the transfer of acquired evacuee agricultural land and rural houses and sites in the State of Punjab or Patiala and East Punjab States Union in accordance with the scales specified in the quasi-permanent allotment scheme operating in those States.

Provided that the displaced person applies for payment of compensation in such form not later than 31st day of December, 1963;

Provided further that if any person has been allotted land in a State other than Punjab and his land claim has not been satisfied fully, he may for the remaining claim either be allotted land due to him in that State or issued a Statement of Account which he may utilise for purchase of property forming part of the Compensation pool or for adjustment of public dues.”

A perusal of the afore-said Rule would show that it envisages submission of application for allotment in regard to unsatisfied verified claims. It further provides that the displaced person applies for payment of compensation in such form not later than 31.12.1963.

6. The expression “verified claim” has been further defined in Section 2(e) of the 1955 Act, which reads as under :-

“verified claim” means any claim registered under the Displaced Persons (Claims) Act, 1950 (XLV of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), and includes any claim registered on or before the 31st day of May, 1953 under the East Punjab Refugees (Registration of Land) (Claims) Act, 1948 (East Punjab Act, XII of 1948) or under

the Patiala Refugees (Registration of Land (Claims) ordinance, 2004 (Order 10 of 2004 BK) and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of this Act, but does not include—

(i) any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;

(ii) except in the case of a banking company for the purpose of sub clause (I) of clause (b) of sub-section (3) of Section 6, only—

(a) any such claim made by or on behalf of any company or association whether incorporated or not;

(b) any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced person in West Pakistan;”

7. The afore-said provisions contained in Rule 67(A) of 1955 Rules came up for consideration before the Division Bench of this Court in ***Smt. Prem Kumari and others vs Commissioner and Secretary, Rehabilitation Department, Chandigarh and others, 2005(3) RCR(Civil) 654***, whereby the claim of the petitioners therein for allotment of land was declined by observing as under :-

“(b) In L.P.A. No. 102 of 1966 titled as Hari Chand Vs. Union of India and another, decided on 03.03.1970, held that the appellant was not entitled to claim compensation under the provisions of the 1954 Act as displaced person because he did not possess any verified claim and observed:

"This Act provides for the lodging of the claims by the refugee land-holders, their registration by the Land Claims Officer and investigation there into by the authority. Section 4 of the said Act provides that a refugee may submit to the Registering Officer on the prescribed form duly supported by an affidavit an application for the registration of claim in respect of his land abandoned by him. Detailed rules have been framed under the Act providing for the manner and the mode of submission of such applications. Rules 2 and 3 of the said Rules provide that the claim application shall be made in the form given in Appendix 'A' thereto and further that such claim applications shall be duly presented to the Registering Officer. It was further provided that in case of a minor, application for claims shall be submitted in the aforesaid manner by his next friend or his guardian. Significantly, the appellant did not at any stage move under the above said provisions to get his claim duly registered and verified. It is conceded that instead of complying with the statutory requirements of the abovesaid provisions, he merely approached the Managing Officer who in the context of the fact that he did not possess any verified claim refused him any relief. This order was rightly upheld by the higher authorities. It is significant to note that under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, the jurisdiction to grant compensation by the authorities thereunder arises qua displaced persons who are verified claimants. In the absence of this pre-requisite qualification the appellant was thus patently ineligible to claim compensation under the provisions of the 1954 Act."

*A similar view was expressed in **Shiv Devi v. Central Government, C.W.P. No. 1239 of 1972, decided on 15.07.1973**. In that case, a Division Bench held that a displaced person, who comes forward for obtaining allotment in lieu of land abandoned in Pakistan must fulfil*

two requirements. Firstly, he should hold a verified claim and secondly, he should have made an application for allotment to satisfy wholly or partially unsatisfied claim before 31st December, 1963 as envisaged under Rule 67-A of the Rules and if either of the two conditions is not satisfied, then he/she cannot claim allotment of land in lieu of abandoned land in Pakistan.”

7.1 Keeping in view the above-said provisions in Rule 67(A) of the 1955 Rules and also the judgment rendered in **Smt. Prem Kumari's** case (supra), it is evident that the petitioners do not possess a verified claim and neither the petitioners applied for allotment of land prior to 31.12.1965. Since the petitioners do not fulfill the afore-said conditions for allotment of land, accordingly, no fault can be found with the orders passed by the authorities below, whereby the claim of the petitioners for allotment of additional land has been rejected.

8. It is further noticeable that although, the claim of the petitioners was rejected by the learned Financial Commissioner vide order dated 09.08.1990 (Annexure P-4), however, they did not lay any challenge to the said order until the year 1995, when they filed a Review Application before the learned Financial Commissioner, which was dismissed on 07.05.1996, as being not maintainable. Apparently, the review application was filed so as to cover up the period from 09.08.1990 upto the year 1995. Thereafter, the writ petition was filed in the year 1997 for challenging the order dated 09.08.1990 (Annexure P-4) along with order dated 07.05.1996 (Annexure P-5).

8.1 In my view, the challenge to the order dated 09.08.1990 (Annexure P-4), by filing review and then by present writ petition suffers from gross delay and laches.

9. In the above mentioned facts and circumstances, I do not find any merit in this writ petition and the same is, accordingly, dismissed.
10. All pending application/s, if any, shall also stand closed.

November 28, 2024

gurpreet

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(HARSH BUNGER)

JUDGE