

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

CWP-12845-2022

Decided on 16.01.2024

Rajo Devi @ Rajpati and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. Rajesh Gaur, Addl. Advocate General, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for commanding respondent No.3 to issue conveyance deed under Section 8 (X) Form (IX) of Haryana Evacuee Properties (Management and Disposal) Rules, 2011 (for short, 'the Act') with respect to the land in question (already transferred by Tehsildar (Sales) vide its order dated 25.04.2017 (Annexure P-1) in favour of the petitioners by way of taking prompt action on Justice Demand Notice dated 28.04.2022 (Annexure P-8) in a time bound manner, qua which the petitioners have already deposited the price of land in compliance to letter memo No.451 dated 15.10.2018 (Annexure P-2) vide receipt dated 03.12.2018 (Annexure P-4) and 12.11.2018 (Annexure P-3), respectively.

It has been contended by learned counsel for the petitioners that Dhan Singh predecessor-in-interest of the petitioners was an ex-serviceman and was given land measuring 12 acres situated in village Hartari, Tehsil Panipat, District Karnal (now Panipat) on lease for a period of 10 years by the Collector under the Inferior Evacuee Land Rules (for short, 'the Rules') vide lease deed dated 28.11.1963, being inferior land. He submits that Dhan Singh filed an

application for transfer of the above-said land under Section 4 (2)(b) of the Act as per policy of the Government. It is submitted that Tehsildar (Sales), Panipat considered the application under Section 8 of the Rules finding the applicant eligible for transfer of the land in question, transferred the land to the petitioners vide order dated 25.04.2017. It is submitted that the order dated 25.04.2017 was confirmed by the competent authority i.e. the Commissioner (Sales), Panipat vide order dated 10.10.2018. He has submitted that the Tehsildar (Sales), Panipat vide letter dated 15.10.2018 asked the petitioners to deposit a sum of Rs.1,26,50,000/-, out of which amount 1/4th of the same i.e. 31,62,500/- was to be deposited within one month from the date of receipt of the notice and rest of the amount i.e. Rs.94,84,500/- was to be deposited with interest @ 12% per annum in 10 installments. It was stated in the said notice that as per instructions of the Government, if the entire amount/sale price is deposited within 60 days then rebate of 10% will be given to the transferee. He has submitted that the petitioners deposited Rs.31,62,500/- on 12.11.2018 being 1/4th of the amount within one month and thereafter, Rs.82,22,500/- on 03.12.2018 within 60 days respectively and thus, they were entitled for rebate of 10% as per mandate under Rule 14(1) of the Rules of 2011. It is submitted that in addition to the aforesaid amount, the petitioners had earlier deposited occupation charges of Rs.91,235/- on 03.05.2002 and Rs.3,43,000/- on 18.09.2018. It is submitted that the petitioners filed a representation dated 14.05.2021 before Tehsildar (Sales) for issuance of conveyance deed as the entire amount stood deposited within 60 days. He submits that various representations were made to the Deputy Commissioner, Panipat for issuance of conveyance deed, however, the same has not been issued in favour of the petitioners till date despite having paid the whole amount within 60 days.

On the issuance of notice, respondent-State filed its reply.

Learned State counsel has opposed the submissions made by learned counsel for the petitioners. He has submitted that Haryana Government framed a policy in the year 2011, which was issued vide notification dated 25.01.2011 regarding disposal of the evacuee land/properties under the provisions of the Act and Rules 2011. It is submitted that Rule 8 Clause (I) of Rules, 2011 deals with the disposal of evacuee rural agriculture land and provides that the persons who are in continuous possession since 01.01.2001, can apply for transfer of such land within six months from the date of issuance of policy i.e. 25.01.2011 and the date was further extended vide notification dated 28.10.2013 for submissions of applications by 31.01.2014. On filing of application dated 18.03.2011 by the petitioners, it was submitted that Banjar evacuee land measuring 98 Kanals 10 Marlas was leased for 10 years vide lease deed dated 28.11.1963 to their predecessor-in-interest Dhan Singh. Thereafter, the application filed by the petitioners was considered and a speaking order was passed on 01.07.2014, whereby the petitioners were found to be eligible for transfer of land. He submits that Tehsildar (Sales) vide order dated 25.04.2017 allowed to transfer 101 kanal 04 marla of land to Smt. Rajjo Devi etc. @ Rs.10,00,000/- per acre which comes out to be Rs.1,26,50,000/-. Hence, the petitioners were directed to pay use and occupation charges equivalent to 20% of the total land price as envisaged under Rule 8(8) of the Rules 2011 i.e. Rs.25,30,000/-. It was provided in case the transferee deposit the amount in instalments then 25% amount of the land price shall be deposited within a month from the date of intimation to the transferee and balance amount i.e. 75% shall be deposited in 10 half yearly instalments with interest @ 12% per annum. It was further directed that in case the amount is deposited in lump sum

within 60 days from the date of intimation, then the transferee shall be entitled to a rebate of 10% of the total land price under Rule 14(1) of the Rules 2011. It is submitted that the Tehsildar (Sales), Panipat vide letter dated 15.10.2018 issued notice to the petitioners to deposit 1/4th amount i.e. Rs.31,62,500/- of total price of land amounting to Rs.1,26,50,000/- within one month of the receipt of the notice and 3/4th amount of Rs.94,87,500/- to be deposited in 10 instalments alongwith interest @12% per annum in respect of land measuring 101 kanals 4 marlas. He submits that in pursuance to the notice, the petitioners deposited Rs.31,62,500/- (25%) on 12.11.2018 and Rs.82,22,500/- on 03.12.2018 and thus, in total an amount of Rs.1,13,85,000/- was deposited by the petitioners but an amount of Rs.12,65,000/- was directed to be paid by the State, as the petitioners had not deposited the total amount in lump sum. He submits that as per Rule 14(2) of the Rules 2011, where the amount was not paid in lump sum, then the balance amount was to be recovered in 10 half yearly instalments with interest @ 12% per annum. He submits that though the petitioners deposited the amount in response to the notice dated 15.10.2018 within 60 days, but the same was deposited in two instalments and not in lump sum and thus, they are not entitled for rebate of 10% as demanded by them and hence are liable to pay Rs.12,65,000/- for the issuance of conveyance deed. It is submitted that prayer made for issuance of direction for conveyance deed by the petitioners, being in contravention to the statute deserves to be rejected. It is submitted that the petition being devoid of merits, deserves to be dismissed.

After hearing learned counsel for the parties and perusing the record, it is apparent that the controversy involved in the present case is not regarding the entitlement of the petitioners for the allotment of land but for grant of 10% rebate in the payment which has already been made by them. The

land has already been allotted to the petitioner for which they were served with a demand notice dated 15.10.2018. Requisite amount to be deposited had already been paid by the petitioner as is evident from the record. The petitioners deposited Rs.31,62,500/- (25%) on 12.11.2018 and thereafter, remaining amount i.e. Rs. 82,22,500/- on 03.12.2018. The demand notice dated 15.10.2018 is placed on record as Annexure P-2, wherein, it has been mentioned that in case the petitioners deposit the entire amount in lump sum within 60 days, then they would be entitled to get rebate of 10% as per Government instructions. The petitioners instead of paying this amount in lump sum have paid the same in two instalments, which are as follows:-

Instalment	Rupees	Dated
1 st	Rs.31,62,500/-	12.11.2018
2 nd	Rs.82,22,500/-	03.12.2018

Thus, it is evident that 60 days from the date of the demand notice dated 15.10.2018 would be upto 15.12.2018. There is no gainsaying that the petitioners have deposited the entire amount in two instalments by 03.12.2018 i.e. well within 60 days. The policy made by the State is a welfare policy. The petitioners have been denied the rebate of 10% on a hyper technical reason that they have not deposited this amount in lump sum. Analyzing the facts and circumstances of the present case in the light of the policy, if the petitioners would have paid this whole amount in lump sum on 60th day i.e. on 15.12.2018 then they were entitled for 10% rebate. However, in the case in hand, where the petitioners have deposited the entire amount much prior to the expiry of 60 days they have been denied this benefit simply on the ground that the amount was not deposited in lump sum within 60 days. The Court is unable to accept this interpretation given by the State. It is not the case of the respondent-State

that the petitioners have paid either of the instalments beyond 60 days. Thus, this Court is of the considered opinion that the policy which has been made for the welfare of its citizens, has not been extended to the petitioners for no fault of on their part. Thus, the stand taken by the State in denying the benefit of grant of 10% rebate to the petitioners is unacceptable. Resultantly, the respondent-State is directed to grant the benefit of 10% rebate as per the mandate of the Rules of 2011 to the petitioners and adjust the same in the account of the petitioners. On the completion of the other necessary requirements if any, the respondent-State is directed to issue conveyance deed to the petitioners.

The petition is allowed in above-mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

16.01.2024
sharmila

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