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

CWP No.12881 of 2015

Date of Decision: 07.02.2024

Ram Sarup and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Som Nath Saini, Advocate
for the petitioners.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Present writ petition has been filed for directing respondent No.3 to decide the claim made in pursuance to the Notification dated 01.01.1966 before him for the transfer of the land which was leased out to them being Inferior Evacuee Property while the claim of some lessees was decided vide P-1 dated 01.02.1968 is not being decided on merits despite the directions issued by this court in CWP-9168-2001, which the respondents are otherwise duty bound to decide the claim of the petitioners on merits, while the claim of similarly situated lessees have already been decided and even the sale deed have been executed in the year 2012, while the claim of the petitioners is being kept pending for a substantial long time.

It has been submitted by learned counsel for the petitioners that predecessor-in-interest of the petitioners migrated from Pakistan and settled over this land, which was owned by the Muslims, who migrated in the wake of partition of the Country as the land was leased out to the landless refugees to make the land cultivable. He submits that on 15.04.1955, the land was given on lease by executing a lease deed by the Collector being an Inferior Evacuee Property and the possession was delivered to the petitioners and since then, they are in actual cultivating possession of the land. He submits that on 01.01.1966, the Punjab Government issued a notification allowing the transfer of the land to the persons, who are in cultivating possession of the land and were entitled to purchase up to 5 standard acres at the rate of Rs.450/-. He submits that in accordance with the notification, the petitioners applied for transfer of the land and some of the applications were allowed vide order dated 01.02.1968. However, some of the applications could not be decided because one Ranjit Singh started claiming ownership of the land in question and thus, the applications were kept pending. He submits that on 18.06.1984, the Hon'ble Supreme Court in Civil Appeal No.107(N) of 1971 rejected the claim of Ranjit Singh and the Rehabilitation Department was held to be the owner. He has submitted that as long time had elapsed when the applications for transfer were filed and those applications having not been traceable, another set of applications were filed before the authorities for taking decision on 25.04.1975. He submits that on 01.11.2001, the State of Haryana issued another policy and the applications were dismissed on the ground that new policy has

been issued. He submits that however, this policy has already been declared ultra virus by this Court in CWP No.2272 of 2003 vide judgment dated 22.11.2010. He submits that on 31.03.2014, respondent No.3 submitted a detailed report wherein it has been mentioned that petitioners have given application under the said Rules on the basis of the possession. He submits that during the pendency of the writ petition bearing No.2272 of 2003, the State Government enacted a legislation namely Haryana Evacuee Properties (Management and Disposal) Act, 2008 (for short 'the Act') and thereafter Amendment Act, 2010 and also framed the rules known as Haryana Evacuee Properties (Management and Disposal) Rules, 2011 (for short 'the Rules'). He submits that the rights of the petitioners are not being finalized by the respondents despite repeated requests. He has submitted that the matter having been finally decided by the Hon'ble Supreme Court in 1984 and the petitioners have left with no alternative remedy except to approach this Court. Thus, he submits that the direction be given to the respondents authorities for deciding the claim of the petitioners in accordance with the notification dated 01.01.1966.

Learned counsel for the State however has opposed the submissions made by learned counsel for the petitioners. He has submitted that the land involved in the instant petition is governed under the provisions of the Haryana Evacuee Properties (Management and Disposal) Act, 2008; Amendment Act, 2010 and the Haryana Evacuee properties (Management and Disposal) Rules, 2011 for the disposal of the Evacuee Rural/Urban lands/properties. He has submitted that as per

Rule 9 of the said Rules, an occupant or his successor-in-interest, who has been in possession of the same from 01.01.2001 or earlier could apply to the Tehsildar concerned along with the relevant documents in support of his claim within a period of six months from the date of notification of these Rules. He has submitted that the applicant had to prove continuous and undisputed possession from 01.01.2001 or earlier. He submits that the petitioners had submitted the applications to purchase the land in question under their possession to the Tehsildar (Sales), Kaithal under the Rules and these applications for transfer of the land had been considered and decided by the Tehsildar (Sales) vide order dated 17.07.2015 and 10.08.2015. The notices were also issued for depositing the use and occupation charges i.e. 20% of the total price as per the Rules, 2011 but the petitioners have denied to deposit the use and occupation charges as their instant petition was pending before the Court for adjudication. He has submitted that the applications were decided by the Tehsildar in 2015 and these orders are placed on record as Annexures R-1 to R-13. However, neither the petitioners complied with the orders passed wherein they were directed to deposit the use and occupation charges within one month from the passing of the order nor assailed the same in accordance with law, if at all they were aggrieved by the same. He has submitted that on this ground alone, the petition is not even maintainable as the petitioners having not assailed the orders passed, the same had attained finality. He submits that even otherwise the orders already passed is a fresh cause of action and thus, the petition is not maintainable.

Heard.

On hearing learned counsel for the parties and perusing the record, it transpires that the predecessor-in-interest of the petitioners were the migrants from Pakistan. The applications were filed for the allotment of the land in accordance with the provisions of the Haryana Evacuee Properties (Management and Disposal) Act, 2008. Some of the applications were decided whereas some applications could not be decided due to the claim of the ownership by third party. As submitted by learned counsel for the State, the respondent-State decided various applications by passing the orders, which are appended as Annexures R-1 to R-13. Admittedly, neither the petitioners have complied with the orders passed nor the same have been assailed further, if he was aggrieved by these orders. Once the orders have already been passed, the petitioners have an independent cause of action. However, the petitioners have not invoked their remedies against the same.

Thus, this Court does not find any merit in the contentions raised by learned counsel for the petitioners for issuing directions as prayed for. Hence, the present petition is disposed of with liberty to the petitioners to avail their alternative remedies as available to them under the law.

(RAJESH BHARDWAJ)
JUDGE

07.02.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No