

CWP-13819-2017

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

**CWP-13819-2017**

Date of Decision: 10.05.2024

Gurmail Singh and others

..... Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

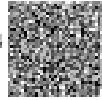
Present: Mr. Bhupender Ghai, Advocate, for the petitioners.

Mr. N.S. Diwana, Sr. DAG, Punjab.

Mr. G.S. Nagra, Advocate for  
respondent No.4.**Rajesh Bhardwaj, J.**

1. Prayer in the present petition is for quashing the order dated 16.01.2017 (Annexure P-1) passed by respondent No.1 vide which the orders dated 25.02.1997 (Annexure P-4) and 06.11.2001 (Annexure P-5) have been set aside and the land in dispute is ordered to be restored to respondent No.4, which is illegal, erroneous, whimsical, against the principles of natural justice and are passed in malafide exercise of powers vested in the authorities i.e. respondent No.1 thereby causing miscarriage of justice which has resulted into irreparable loss to the petitioners. Further prayer has made to stay the operation of the impugned order Annexure P-1.

2. Learned counsel for the petitioners has submitted that Tehsildar Sales-cum-Managing Officer i.e. respondent No.3 vide order dated 24.02.1978 allotted area of land measuring 49 K 9 M to one Smt. Radha Bai widow of Khushi Ram under the provisions of Section 12 of the Displaced Persons (Compensation and Rehabilitation), Act 1954 and issued



Sanad in her favour. He submits that thereafter, the petitioners purchased land measuring 19 K 4 M, out of said land from the allottee on 18.12.1979. He has submitted that mutation was also sanctioned in favour of the petitioners. It is submitted that thereafter, respondent No.4 filed a Civil Suit challenging the said allotment, which was contested by the petitioners and the same was dismissed by the Civil Judge, Senior Division, Fatehgarh Sahib vide its judgment dated 25.02.1997. He submits that appeal against the judgment dated 25.02.1997 was also dismissed by the Additional District Judge, Fatehgarh Sahib vide order dated 06.11.2001. It is submitted that respondent No.4 filed a petition under Section 4-B of the Punjab Package Deal Properties Disposal Act, 2009 (for short, 'the Act') impugning the orders dated 24.02.1978 and 04.06.1979 before respondent No.1, who accepted the petition and set aside the orders dated 24.02.1978 and 04.06.1979, vide his impugned order dated 16.01.2017. Thus, he further submits that the impugned order is totally illegal, arbitrary and without jurisdiction and thus, deserves to be set aside.

3. At the outset, learned counsel for respondent No.4 has opposed the present petition on the ground of its maintainability. He submits that the impugned order has been passed under Section 4-D of the Act. He submits that as per the provisions of this Act, the order impugned is appealable under Section 4-E of the Act and thus, the present petition is not maintainable as the petitioners has the remedy of appeal against the impugned order.

4. After hearing learned counsel for the parties and perusing the record and relevant statutes, it is apparent that Section 4-E of the Act



provides remedy of appeal to the person who is aggrieved of the order passed under Section 4-D of the Act on the application moved under Section 4-B of the Act. Section 4-E of the Act reads as under:-

“4-E- Any person, aggrieved with the order of the Claims Commissioners, passed under Section 4-D, may prefer an appeal to the Financial Commissioner, Revenue within a period of sixty days from the date of the order.”

5. Thus, there is no gainsaying that impugned order has been passed under Section 4-D of the Act, which is appealable under Section 4-E of the Act. This Court is in agreement with the objection taken by learned counsel for respondent No.4 regarding maintainability of the petition, hence, the present petition is held to be not maintainable before this Court. Thus, the present petition is disposed of with liberty to the petitioners to avail their remedy of appeal under Section 4-E of the Act.

6. Once the appeal is filed, on the point of limitation, the Appellate authority would take into consideration the pendency of this petition before this Court and deal with the same in accordance with Section 14 of the Limitation Act.

7. Disposed of as such.

10.05.2024  
sharmila

Whether Speaking/Reasoned  
Whether Reportable

(RAJESH BHARDWAJ)  
JUDGE

: Yes/No  
: Yes/No