

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

204-1

CWP-18843-2016 (O&M)

TRIPAT KAUR

... Petitioner

VERSUS

STATE OF HARYANA & ORS

... Respondents

A N D

204-2

CWP-19579-2015(O&M)

Judgment Reserved on: 07.02.2024
Judgment Pronounced on: 21.02.2024

JOGINDER KAUR AND ANOTHER

... Petitioner

VERSUS

STATE OF HARYANA & ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. P.S. Khurana, Advocate and
Mr. N.S. Sidhu, Advocate for the petitioner(s).

Mr. Narender Singh Behgal, AAG, Haryana
for respondents No.1 to 3.

Mr. Chetan Bansal, Advocate for respondent No.4.

VINOD S. BHARDWAJ, J.

Since identical issues arise, both these writ petitions are being decided by a common judgment, with the consent of the parties. Facts are, however, being referred from CWP-18843 of 2016 titled as 'Tripat Kaur Versus State of Haryana and others'.

Challenge in the said petition is to the letter dated 29.11.2002 issued by the Commissioner-cum-Principal Secretary to the Government of Haryana, Department of Home Affairs as well as to the Circular dated 01.08.2016 vide which the Financial Commissioner-cum-Principal Secretary to the Government of Haryana, Department of Home Affairs has directed to release the enhanced compensation to riot victims only in favour of respondent No.4 –Paramjit Singh (brother of the petitioner) and has denied the share to the petitioners despite being Class-I legal heirs of the deceased. A further direction has also been sought to the officials respondents to make corrections in their record and to declare the petitioners' entitlement to the *ex-gratia* compensation given by the State of Haryana, being legal heirs of the victims of October/ November 1984 riots.

Briefly summarised, the facts are that consequent upon the assassination of the former Prime Minister of India and the ensuing riots, a mob of about 100 people allegedly attacked and killed Mrs. Swaran Kaur (mother of the petitioners and respondent No.4), Jatinder Singh and Satinder Singh (both brothers of the petitioners and respondent No.4) and Mrs. Kuldeep Kaur wife of Satinder Singh (*Bhabhi* of the petitioners and respondent No.4) on 02.11.1984. An FIR No.327 was lodged at Police Station Sadar Gurgaon (now Gurugram) for offences under Sections 452, 148, 149, 436 and 302 of I.P.C. by Ram Singh, a family member of the petitioners. The death certificates of the members/victims of the family of the petitioner and respondent No.4, killed by the mob, have also been attached with the present writ petition.

An interim *ex-gratia* compensation at the rate of Rs.7,000/- was paid on 27.11.1984. The petitioner was married at the time of grant of the said

compensation and had also received an additional enhanced *ex-gratia* compensation of Rs.20,000/- given by the Government of Haryana later in point of time. The petitioners as well as respondent No.4 are heirs/ successors of the members of the family killed by the mob in the said riots.

A CWP No.12661 of 1997 titled 'Kulwant Kaur Vs. State of Haryana and others' was filed in the High Court for seeking enhancement of the *ex-gratia* compensation. The same was decided on 16.04.1998 holding that the petitioner/victim therein was entitled to an *ex-gratia* compensation of Rs.3,50,000/- for the death of her husband, following a Division Bench of the Delhi High Court in CWP No.1429 of 1996 titled as 'Bhajan Kaur Versus Delhi Administration' decided on 05.07.1996.

Further, the above judgment of ***Kulwant Kaur (supra)*** was again followed in ***CWP-5829-2001*** titled as '***S.S. Ahluwalia Vs. Union of India and others***' decided on 02.04.2002. The Chief Secretary to the Government of Haryana was also directed by this Court to constitute a Cell for monitoring the payment of compensation to the victims of the 1984 riots and for release of the compensation within a period of six months after the verification of the payment. It was further directed that all the victims/the heirs of the victims should be treated at par in the matter of payment of compensation.

In compliance of the directions given by this Court in the case of ***S.S. Ahluwalia (supra)***, a public notice was issued by the State of Haryana inviting claims from the kins of the victims of riots of 1984, on 10.07.2002. Late Smt. Surjeet Kaur (Sister of the petitioners and respondent No.4) had submitted her application on 06.08.2002 furnishing the relevant particulars, copy of the FIR as well as the death certificates. The documents were sent to

the Competent Authority for necessary verification. The Monitoring Cell took a decision that the married daughters of victims of the 1984 riots within the territories of State of Haryana, would not be entitled to receive the share in the *ex-gratia* compensation; and based on the said decision, an information was sent by the office of the Deputy Commissioner, Gurgaon declining to release any compensation to the petitioners. At the same time, the Deputy Commissioner, Delhi (West) verified the documents as regards the relationship of the petitioners and the private respondent No.4 with the victims killed in the 1984 riots in Gurgaon.

It is alleged that respondent No.4 – Paramjit Singh (brother of the petitioners) furnished an affidavit dated 22.01.2003 to the Authorities to the effect that he is the only legal heir of deceased Mrs. Swaran Kaur wife of Sewa Singh, who was killed in the riots of 1984, based whereupon, the amount of compensation in the form of Indira Vikas Patra amounting to Rs.23,000/- and an *ex-gratia* compensation of Rs.13,20,000/- was received by him. It is contended that the above affidavit furnished by Paramjit Singh was factually incorrect since late Mrs. Swaran Kaur had two daughters namely Surjeet Kaur and Joginder Kaur. The relationship of the petitioner with late Mrs. Swaran Kaur was also verified by the Deputy Commissioner, Delhi (West). Since the entire *ex-gratia* compensation was released only in favour of Paramjit Singh, the petitioner and her sister sought information under Section 6 of the Right to Information Act, 2005 about the same, to which, reply was given on 13.03.2006. On receipt of said information, a criminal complaint was filed by the petitioner and her sister against Paramjit Singh before the Chief Judicial Magistrate, Gurgaon under Sections 467, 468, 471, 420, 120-B, 506, 177, 181,

182, 191, 192, 196, 199 and 200 of the IPC on 20.03.2006. At the same time, the Government of Haryana also decided to enhance *ex-gratia* compensation to the victims of 1984 riots from Rs.3,50,000/- to Rs.7,50,000/-. The increased *ex-gratia* compensation was however, not disbursed to Paramjit Singh, owing to the pending complaint.

The petitioners also approached this Court in CWP-4819 of 2006 seeking striking down of Columns No. 3 and 4 of Appendix to the letter dated 29.11.2002 issued by the official respondents in not considering the married daughters of victims killed in 1984 riots entitled to a share in the *ex-gratia* compensation. Disbursement of the enhanced *ex-gratia* compensation was stayed by this Court vide, its order dated 27.03.2006, till further orders.

During the pendency of the said writ petition, a compromise was effected between the parties and respondent No.4-Paramjit Singh, who agreed to give the share to the petitioner and her sister in the compensation received from Government of Haryana and furnished an affidavit to the said effect (Annexure P-18) before this Court. The abovesaid writ petition No.CWP-4819-2006 was accordingly ordered to be dismissed as withdrawn vide order dated 07.05.2007 in view of the settlement between the parties.

Nearly 8 years after withdrawal of the said writ petition, the State of Haryana issued another circular dated 14.07.2015 enhancing the relief to the tune of Rs.5,00,000/- per deceased during the 1984 sikh riots. The claim of the petitioner and her sister was ignored by the official respondents and a direction was issued to release the entire enhanced relief in favour of respondent No.4. An application was moved yet again by the petitioners to the Deputy Commissioner, Gurgaon on 05.08.2015 for release of proportionate share of

enhanced compensation to them as well. The said request was forwarded by the Deputy Commissioner, Gurgaon to the Principal Secretary, Department of Home Affairs, State of Haryana. No decision was, however, taken thereupon. Consequently, Joginder Kaur- sister of the petitioner approached this Court by filing a petition bearing No.CWP-19579-2015. The disbursement of the enhanced share to the extent of the share of the petitioner as well as her sister was again stayed by this Court vide order dated 16.09.2015.

At the same time, the Government of Haryana also constituted a Commission of Inquiry into the incidents and for the victims of 1984 riots for the incident that occurred at village Houd Chillar, Pataudi and the other areas in District Gurgaon in the year 2011 under the Chairmanship of Hon'ble Mr. Justice T.P. Garg (Retd.). In view of the report submitted by Justice T.P. Garg Commission, another circular dated 01.08.2016 was issued by the Addl. Chief Secretary to the Government of Haryana, Department of Home Affairs for grant of enhanced relief of Rs.15,00,000/- per deceased. Even in the abovesaid circular, the share of the petitioners was again ignored and the entire enhanced compensation was directed to be released in favour of respondent No.4-Paramjit Singh. An application was thereafter moved by the petitioners on 24.08.2016 to the Authorities for seeking stay on disbursement to the extent of their share in the *ex-gratia* compensation, granted in view of the report submitted by Justice T.P. Garg Commission to respondent No.4-Paramjit Singh, but no action was taken thereupon and the right of the petitioner as the married daughter to receive *ex-gratia* compensation as the legal heir of victim killed in the 1984 riots has been denied. Resultantly, the writ petition bearing No.CWP-18843-2016 was filed.

RESPONSE BY THE RESPONDENT SIDE:-

Written statement on behalf of respondents No.1 to 3 through the Special Secretary, Government of Haryana, Department of Home Affairs has been filed, wherein the factual aspect as regards the petitioners being related to the deceased victims of 1984 riots was not disputed. It has been averred that the Monitoring Cell for payment of compensation to the victims of 1984 riots was constituted vide order dated 12.07.2002 and a condition was inserted vide letter dated 29.11.2002 that the share of compensation shall not be paid to a claimant, who is a married daughter of deceased. The petitioners had filed a petition bearing No.CWP-4819-2006 for seeking the quashing of columns of the letter dated 29.11.2002 vide which the claims of the married daughters of the victims of 1984 Sikh riots were barred, however, a compromise was effected between the parties, as per which the share of the petitioners was given to them by their brother-respondent No.4, whereupon the CWP No.4819 of 2006 was withdrawn on 07.05.2007.

The *ex-gratia* compensation was enhanced initially on the recommendations of Hon'ble Justice Nanawati Commission and a clarification was sought from the Government of India as to whether the amount of enhanced compensation was admissible only to the persons who received the compensation at initial stages or fresh claims were required to be obtained. Vide letter dated 25.05.2016, the Government of India observed that the State Government had already taken a decision on the issue while making the initial payment and advised accordingly. Hence, the compensation in question was confined to be paid to the victims who had received amount at initial stage prior to enhancement and no new claim was to be entertained. It is contended

that since the petitioners had received compensation at the initial stage, hence, they were entitled to enhanced compensation in view of the compromise executed between the parties.

It is further acknowledged that the Delhi High Court in its judgment dated 04.07.2007 passed in the matter of '**Smt. Ganny Kaur Versus The State (NCT of Delhi) and Others**', has held that the compensation granted to the 1984 Sikh riots victims cannot be equated with estate of an interest which devolves as per the principles of succession and inheritance prescribed under the personal laws by observing as under:

“Reliance placed on the personal law of succession is of no consequence in this case. This is a matter of compensation being awarded by the State which does not function under any personal law. It only functions under the Constitution of India which has established it as a secular state. Wherever the relationship between the State and a Citizen is in issue, the personal law of the citizen has little or no relevance. Personal laws operate mostly in the domain of Citizen v Citizen contests.”

It was thus stated that in view of the said scenario, the impugned columns of letter dated 29.11.2002 should not come in the way of the petitioners and that they would be entitled to their share in the enhanced compensation, as it is not a fresh claim, and the enhanced compensation should be disbursed to the kins of the victims, who had received the compensation at initial stages.

RESPONSE BY CONTESTING RESPONDENT NO.4

A separate written statement was filed on behalf of respondent No.4- brother of the petitioners, wherein, without disputing the factual aspects

noticed above, a substantive objection raised is that the petitioners had earlier tendered an affidavit dated 30.04.2007 and that in paragraph No.8 thereof, the petitioners had made averments on oath that they waive off their right to claim any further compensation. Hence, the petitioners are not entitled to any share in the enhanced *ex-gratia* compensation, having executed an affidavit waiving their subsisting right to claim compensation. They are thus estopped from claiming any further compensation or share in it. It was prayed that the present petition being an abuse of process of law is liable to be dismissed.

In their substantive arguments, counsel for the respective parties have reiterated their submissions noticed above and have not raised any other argument.

CONSIDERATION

I have heard learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

The entire controversy is confined around the affidavit dated 30.04.2007 executed by the petitioners and placed on record by respondent No.4, originally, in CWP-4819-2006, on the basis whereof an estoppel of waiver is sought to be read against the petitioners. The contents of the said affidavit read thus:

“Affidavit of Mrs. Tripat Kaur W/o S. Prabhjot Singh, resident of H. No.127, Bal Mukund Khand, New Delhi.

I, the above named deponent, do hereby solemnly affirm and declare as under: -

1. *That the above noted Civil Writ Petition is pending in this Hon'ble Court for decision on merits after admission. The case is listed on the Board of Hon'ble Mr. Justice Ranjit Singh at S. No 1043 as a regular case.*
2. *That the State of Haryana-official respondent has barred the married daughter of the persons killed in 1984 riots from the share in compensation paid to the legal heirs of the deceased persons. The above noted Civil Writ Petition challenges the said order of State of Haryana.*
3. *That the Writ Petition came up for preliminary hearing before Hon'ble Mr. Justice S.S. Nijjar and Hon'ble Mr. Justice Ranjit Singh on 27.3.2006 and the Hon'ble Court was pleased to issue Notice of Motion and also stayed the disbursement of the enhanced compensation during the pendency of the Civil Writ Petition.*
4. *That the case was admitted for regular hearing on 20.7.2006.*
5. *That brother of the petitioners is impleaded as respondent No.4 in the above said Civil Writ Petition and he is eligible to receive the compensation from the Deputy Commissioner, Gurgaon respondent No.3. The respondent no.4 has received Vikas Patras amounting to Rs.23000/- and compensation amounting to Rs.13,20,000/- from respondent no.3.*
6. *That now the respondent no. 4 Sh. Paramjit singh has undertaken to give respondents Rs.3.50 lacs in full and final settlement of their case to each of the petitioners in case the petitioners withdrew the above said Civil Writ Petition. The respondent no. 4 has a result of the compromise/undertaking has issued cheques amounting to Rs.3.50 lacs each dated 10.5.2007 drawn on HDFC Bank Ltd., CC-31, Commercial Complex, Naraina Ind. Area, Phase-1, New Delhi bearing cheque Nos. 181804, 181803 and 181802. The undertaking given by respondent no. 4 is recorded in the affidavit of said Sh. Paramjit*

Singh S/o Late Sh. Sewa Singh dated 18.4.2007 and is annexed to the application as Annexure P-17.

7. *That I have filed an objection suit in the court of law at High Court and now all the dispute is mutually settled within me and my brother S. Paramjeet Singh. That now I am ready to withdraw my CWP No. 4819 i.e. above said case. That now I have No objection if the Govt. will pay the ex-gratia relief for death of 1984 riots to my brother S. Paramjeet Singh S/o Late S, Sewa Singh R/o 3072/2T, Gali No.10, Ranjeet Nagar, New Delhi-110008. That in future neither I nor my any legal heirs will claim for ex-gratia relief for death of 1984 riots or filed any type of objection in any court of law. That I have executed this affidavit on my free will, in my sound and good health without any pressure from any side,*

8. *That in view of the compromise mentioned in para 6 above, the petitioners have decided to withdraw the above said Civil Writ Petition. In support of the withdrawal of the Civil Writ Petition, the affidavit of each of the petitioners is annexed herewith.”*

Counsel for respondent No.4 has placed reliance on the averments contained in paragraph No.7 of the abovesaid affidavit, as emphasized therein. The core issue which comes up for consideration and adjudication before this Court is as to whether the abovesaid affidavit would operate as a bar against the petitioners to seek disbursement of the compensation on account of enhancement in the *ex-gratia* compensation as announced by the Government later in point of time.

Before a ‘doctrine of waiver’ can be construed to operate against the petitioner, it is essential to understand the prerequisites for attracting the said doctrine. The Hon'ble Supreme Court dealt with the abovesaid doctrine in

the matter of 'P. Dasa Muni Reddy Versus P. Appa Rao' reported as (1974) 2

SCC 725. The relevant extract of the same is reproduced hereinafter below:

“13. Abandonment of right is much more than mere waiver, acquiescence or laches. The decision of the High Court in the present case is that the appellant has waived the right to evict the respondent. Waiver is an intentional relinquishment of a known right or advantage, benefit, claim or privilege which except for such waiver the party would have enjoyed. Waiver can also be a voluntary surrender of a right. The Doctrine of waiver has been applied in cases where landlords claimed forfeiture of lease or tenancy because of breach of some condition in the contract of tenancy. The doctrine which the courts of law will recognise is a rule of judicial policy that a person will not be allowed to take inconsistent positions to gain advantage through the aid of courts. Waiver sometimes partakes of the nature of an election. Waiver is consensual in nature. It implies a meeting of the minds. It is a matter of mutual intention. The doctrine does not depend on misrepresentation. Waiver actually requires two parties, one party waiving and another receiving the benefit of waiver. There can be waiver so intended by one party and so understood by the other. The essential element of waiver is that there must be a voluntary and intentional relinquishment of a right. The voluntary choice is the essence of waiver. There should exist an opportunity for choice between the relinquishment and an enforcement of the right in question. It cannot be held that there has been a waiver of valuable rights where the circumstances show that what was done was involuntary. There can be no waiver of a non-existent right. Similarly, one cannot waive that which is not one's as a right at the time of waiver. Some mistake or misapprehension as to some facts which constitute the underlying assumption without which parties would not have made the contract may be sufficient to justify the court in saying that there was no consent.

14. *Just as the courts normally do not permit contracting out of the Acts so there can be no contracting in. A status of control of premises under the Rent Control Acts cannot be acquired either by estoppel or by res judicata. The principle is that neither estoppel nor res judicata can give the court jurisdiction under the Acts which those Acts say it is not to have. The Rent Control Acts operate in rem. These Acts give a status to the house from which certain legal consequences follow."*

(Emphasis supplied)

The said doctrine was further reaffirmed by the Hon'ble Supreme Court in the matter of '**State of Punjab Versus Davinder Pal Singh Bhullar and others**' reported as **(2011) 14 SCC 770**. The relevant extract of the same is reproduced hereinafter below:

" II. Doctrine of waiver

37. *In Manak Lal this Court held that alleged bias of a Judge/official/Tribunal does not render the proceedings invalid if it is shown that the objection in that regard and particularly against the presence of the said official in question, had not been taken by the party even though the party knew about the circumstances giving rise to the allegations about the alleged bias and was aware of its right to challenge the presence of such official. The Court further observed that: (SCC p. 431, para 8)*

"8.waiver cannot always and in every case be inferred merely from the failure of the party to take the objection. Waiver can be inferred only if and after it is shown that the party knew about the relevant facts and was aware of his right to take the objection in question."

38. *Thus, in a given case if a party knows the material facts and is conscious of his legal rights in that matter, but fails to take the plea of bias at the earlier stage of the proceedings, it creates an*

effective bar of waiver against him. In such facts and circumstances, it would be clear that the party wanted to take a chance to secure a favourable order from the official/court and when he found that he was confronted with an unfavourable order, he adopted the device of raising the issue of bias. The issue of bias must be raised by the party at the earliest. (See Pannalal Binraj v. Union of India and P.D. Dinakaran (1) v. Judges Enquiry Committee.)

39. In Power Control Appliances V. Sumeet Machines (P) Ltd. this Court held as under: (SCC p. 457, para 26)

"26. Acquiescence is sitting by, when another is invading the rights.... It is a course of conduct inconsistent with the claim.... It implies positive acts; not merely silence or inaction such as involved in laches.... The acquiescence must be such as to lead to the inference of a licence sufficient to create a new right in the defendant....."

40. *Inaction in every case does not lead to an inference of implied consent or acquiescence as has been held by this Court in P. John Chandy & Co. (P) Ltd. v. John P. Thomas. Thus, the Court has to examine the facts and circumstances in an individual case.*

41. Waiver is an intentional relinquishment of a right. It involves conscious abandonment of an existing legal right, advantage, benefit, claim or privilege, which except for such a waiver, a party could have enjoyed. In fact, it is an agreement not to assert a right. There can be no waiver unless the person who is said to have waived, is fully informed as to his rights and with full knowledge about the same, he intentionally abandons them. (Vide Dawsons Bank Ltd. v. Nippon Menkwa Kabushiki Kaisha, Basheshar Nath v. CIT, Mademsetty Satyanarayana v. G. Yelloji Rao, Associated Hotels of India Ltd. v. S.B. Sardar Ranjit Singh,

Jaswantsingh Mathurasingh v. Ahmedabad Municipal Corpn, Sikkim Subba Associates v. State of Sikkim and Krishna Bahadur v. Purna Theatre.)

42. *This Court in Municipal Corpn. of Greater Bombay v. Dr Hakimwadi Tenants' Assn. considered the issue of waiver/acquiescence by the non-parties to the proceedings and held: (SCC p. 65, paras 14-15)*

"14. In order to constitute waiver, there must be voluntary and intentional relinquishment of a right. The essence of a waiver is an estoppel and where there is no estoppel, there is no waiver. Estoppel and waiver are questions of conduct and must necessarily be determined on the facts of each case.

15. There is no question of estoppel, waiver or abandonment. There is no specific plea of waiver, acquiescence or estoppel, much less a plea of abandonment of right. That apart, the question of waiver really does not arise in the case. Admittedly, the tenants were not parties to the earlier proceedings. There is, therefore, no question of waiver of rights by Respondents 4-7 nor would this disentitle the tenants from maintaining the writ petition."

43. *Thus, from the above, it is apparent that the issue of bias should be raised by the party at the earliest, if it is aware of it and knows its right to raise the issue at the earliest, otherwise it would be deemed to have been waived. However, it is to be kept in mind that acquiescence, being a principle of equity must be made applicable where a party knowing all the facts of bias, etc. surrenders to the authority of the Court/Tribunal without raising any objection. Acquiescence, in fact, is sitting by, when another is invading the rights. The acquiescence must be such as to lead to the inference of a licence sufficient to create rights in other party.*

Needless to say that the question of waiver/acquiescence would arise in a case provided the person apprehending the bias/prejudice is a party to the case. The question of waiver would not arise against a person who is not a party to the case as such person has no opportunity to raise the issue of bias.”

(Emphasis Supplied)

The Hon'ble Supreme Court has reiterated the said principle again in the judgment of **'Kanchan Udyog Ltd. Versus United Spirits Ltd.'** reported as **(2017) 8 SCC 237** relying upon and reiterating the judgment of ***P. Dasa Muni Reddy (supra)***.

Adverting to the affidavit dated 30.04.2007 submitted by the petitioners in CWP-4819-2006, even though, on a plain reading, the said affidavit suggests that the petitioner or her legal heirs will not claim for *ex-gratia* relief for death of the victims in 1984 Sikh riots or file any type of objection in any Court of law, however, it has to be seen as to whether the said waiver is in relation to those proceedings only or has to be construed as an abandonment of any interest/right that may even accrue in future.

It is evident from a perusal of the law laid down by the Hon'ble Supreme Court in the matter of ***P. Dasa Muni Reddy (supra)*** as well as in the matter of ***State of Punjab Versus Davinder Pal Singh Bhullar (supra)*** that the doctrine of waiver stipulates a prerequisites that the same has to be an intentional relinquishment of a known right or advantage, benefit, claim or privilege, which except for such waiver, the party would have enjoyed. For the purpose of ascertaining an intentional relinquishment, their necessarily has to be a meeting of minds. There can be no waiver where the circumstances show that there was a non-existent right. One cannot be presumed to waive

something that was not one's right at the time of waiver. Hence, once a right has accrued later in point of time, such right in future cannot ordinarily be waived by a party, prior in time.

In order to ascertain the intent of the parties, the affidavit has to be read as a whole and the context in which the said intent has been conveyed.

A perusal of the affidavit itself shows that the same is confined to the subject matter of compensation already awarded and disbursed to respondent No.4- Paramjit Singh and the pending proceedings before the High Court. It was fairly stated therein that the compensation amounting to Rs.23,000/- as Indira Vikas Patra and Rs.13,20,000/- as *ex-gratia* financial assistance has been received by respondent No.4 and that the rival claims of the petitioners herein had been fully and finally settled for a sum of Rs.3,50,000/- whereupon they agreed to withdraw the said writ petition. Even in the initial part of paragraph No.7 of the affidavit, it is submitted that the petitioners do not have any further objection in releasing the *ex-gratia* compensation/relief to respondent No.4. It was in continuation of the same that it has been averred that they will not raise any claim in future for the *ex-gratia* compensation/relief or file any objection in any Court of law.

The aforesaid contents of the affidavit, when read in the context in which the affidavit has been executed and by reading the affidavit as a whole, are apparently confined to the compensation as was the subject matter of dispute in CWP-4819-2006. Thus, the waiver of the right to raise objection or stake claim even in future has to be understood in the context of the *ex-gratia* financial assistance already ordered to be released by the Government. The petitioners thus waived their right, which had accrued on the compensation

awarded, as on the date of filing of the affidavit. They cannot be construed to have waived their all rights to compensation at all. The settlement by the petitioners, against all their claims on receipt of Rs.3.50,000/-, thus was apparently based on an intent and understanding that *ex-gratia* financial assistance allowed by the Government would remain fixed at the amount above and it cannot be construed that the petitioners consciously also waived their rights to seek any share in future compensation in the event of enhancement of the *ex-gratia* compensation/ financial assistance. Had it been so, she would have specifically mentioned in the affidavit that she would not claim any share even on any subsequent enhancement of the *ex-gratia* compensation/financial assistance.

It is a well settled principle in law that a document has to be read as a whole and piecemeal words/letters cannot be read, in isolation, to construe the intent of a document. The doctrine of construction mandates that the intent has to be derived from a meaningful reading of a document as a whole.

A comprehensive, intended and meaningful reading of the abovesaid affidavit in no manner suggests that the petitioners had waived their right in the apportionment of compensation on its enhancement at any time in future. The enhancement of *ex-gratia* compensation/financial assistance is nearly 8 years after the settlement between the parties and there was no possibility or proceeding for a future enhancement. As such, it cannot be construed that the petitioners were aware of and actually intended to waive off their any future interest in the *ex-gratia* compensation/financial assistance that may be created by any subsequent orders/decisions taken by the Government.

The objection of respondent No.4 that the petitioners have relinquished all their rights to the *ex-gratia* compensation/financial assistance is thus misconstrued and the affidavit dated 30.04.2007 has to be read as waiver of all her rights or to raise objections to the *ex-gratia* financial assistance disbursed therein and that the petitioners were restrained from disputing the settlement that had been executed between the parties, on the disbursed compensation/financial assistance settled for the sum of Rs.3,50,000/-.

Still further, the right of the petitioners to claim compensation is not disputed by the respondent-State, in terms of the judgment of Hon'ble Delhi High Court, and by holding that the principle of succession would not apply to *ex-gratia* compensation/financial assistance. I am of the opinion that the petitioners herein are entitled to apportionment of the enhanced compensation as kin of the victims of 1984 Sikh riots and the amount of the said enhanced *ex-gratia* compensation/financial assistance cannot be confined/ordered to be released in favour of respondent No.4 alone.

Hence, the present writ petitions are allowed. 1

All other misc. application(s), if any, also stand(s) disposed of accordingly.

FEBRUARY 21, 2024

rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No