

2025 PHHC.179820



201

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-11485-1995 (O&M)
Date of Decision: 30.10.2025

Gursharan Kaur

..... Petitioner

Versus

Financial Commissioner (Taxation), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. B.S. Bali, Additional A.G., Punjab.

Mr. P.S. Chahal, Advocate and
Mr. K.S. Rawat, Advocate for
Mr. G.S. Nagra, Advocate
for respondent No. 5.

HARSH BUNGER J.

Prayer in the present petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Certiorari for setting aside the orders dated 07.11.1994 (Annexure P-5) and 30.05.1996 (Annexure P-9), both passed by the learned Financial Commissioner (Taxation), Punjab.

1.1 A further prayer has been made for restraining the respondents from dispossessing the petitioner in pursuance to the aforesaid orders passed

by the learned Financial Commissioner (Taxation), Punjab.

2. From a perusal of the paper book, the following facts emerge:-

2.1 The petitioner is stated to be a war widow of Sh. Mohinder Singh, who served in the Army and had died in Indo-China war in 1962. As per the Government policy, petitioner was initially allotted land measuring 45 Kanals-14 Marlas vide order dated 22.02.1969. Subsequently, upon her application for cultivable land, the Settlement Commissioner, Punjab, Jullundur, vide order dated 13.05.1969, directed the Tehsildar (Sales)-cum-Managing Officer, Hoshiarpur, to provide her alternative cultivable land. Consequently, vide order dated 21.07.1969, she was allotted a total of 45 Kanals-14 Marlas (which included the land in dispute measuring 6 Kanals-11 Marlas, as involved in present case). Symbolic possession was delivered vide Rapat No.510 dated 01.08.1969, and later, physical possession of specific khasra numbers (including the land in question), was delivered to the petitioner on 13.03.1982. A Conveyance Deed for 80 Kanals (which included the suit land) was issued in her favour on 10.11.1987.

2.2 Respondent No.5 – Sadhu Singh, had earlier submitted an application seeking transfer of rural evacuee land on the basis of his alleged possession since Rabi 1965. The said application was rejected by the competent authority. His challenge thereto by way of a writ petition, i.e. CWP No.404 of 1972, was dismissed by this Court vide order dated 25.11.1981 (Annexure P-1), holding that he had failed to establish his possession since Rabi 1965.

2.3 During pendency of the said writ petition, i.e. CWP No. 404 of 1972; Sadhu Singh (respondent No.5) submitted another application on 15.10.1974 again seeking transfer of land on the basis of his alleged

possession since Rabi 1972. The said application, however, did not include the land presently in dispute. It was rejected by the Naib Tehsildar (Sales), Hoshiarpur, on 27.01.1975, on the ground that he was serving as a Government employee and, therefore, not eligible for such transfer. Although an appeal was preferred and allowed on technical grounds, resulting in remand.

2.4 Thereafter, respondent No.5 made another application on 28.03.1979 under a different Press Note for transfer of several lands, including the suit land, based on his alleged possession since Rabi 1976. His application was initially rejected on the ground of him being a Government servant. However, upon a revision petition, the Chief Sales Commissioner, Punjab, vide order dated 28.10.1983, remanded the case to the Tehsildar (Mahal)-cum-Sales, Hoshiarpur, to decide the application afresh. In the remand proceedings, the Naib Tehsildar, vide order dated 23.10.1984, allotted the suit land to respondent No.5.

2.5 The petitioner challenged this order before the Sales Commissioner, Hoshiarpur, who vide order dated 18.03.1986 (Annexure P-2) allowed her appeal and set aside the Naib Tehsildar's order. The appeal filed by respondent No.5 against this order was dismissed by the Chief Sales Commissioner, Hoshiarpur, on 06.10.1987 (Annexure P-3), and his subsequent Misc. Petition before the Commissioner, Jalandhar Division, was also dismissed on 08.08.1990 (Annexure P-4).

2.6 Respondent No.5 thereafter filed a revision petition under Section 15(1) of the Punjab Package Deal Properties (Disposal) Act, 1976, before the Financial Commissioner (Taxation), Punjab. The Financial Commissioner, vide the impugned order dated 07.11.1994 (Annexure P-5),

allowed the revision, set aside the orders dated 18.03.1986, 06.10.1987, and 08.08.1990, and restored the Naib Tehsildar's order dated 23.10.1984, thereby upholding the allotment in favour of respondent No.5. The petitioner thereafter moved an application seeking recall of the order dated 07.11.1994 (Annexure P-5), which remained undecided. Consequently, the present writ petition came to be filed, in which notices were issued and dispossession of the petitioner was stayed. On 09.02.1996, the following order was passed by this Court:-

“ Adjourned to April 9,1996 on the request of the counsel for the parties.

In the meanwhile, it is expected of the Financial Commissioner to decide the matter finally.”

2.7 Thereafter on 09.04.1996, the following order was passed:-

“ Adjourned to May 22,1996.

On the last date of hearing an order was passed to the effect that it was expected of the Financial Commissioner to decide the matter finally. However, the case has not been decided as yet.

The counsel for the petitioner has brought to our notice that the next date fixed in the case is May 10,1996 before the Financial Commissioner (Taxation). The learned Financial Commissioner is directed to decide the case on the aforementioned date. If for some unavoidable reasons if it is not possible to decide the case on the aforementioned date, he must decide the case on or before May 20, 1996.”

2.8 Subsequently the petitioner's application for setting aside this ex-parte order was dismissed by the successor Financial Commissioner vide order dated 30.05.1996 (Annexure P-9), accordingly the petitioner sought amendment of the writ petition; which was allowed by this Court vide order dated 23.07.1996, leading to the present writ petition.

3. Heard.

4. The core issue in the present case revolves around the legality and propriety of the orders dated 07.11.1994 (Annexure P-5) and 30.05.1996 (Annexure P-9) passed by the learned Financial Commissioner (Taxation), Punjab.

4.1 A perusal of the record reveals that the suit land had already been validly allotted to the petitioner, being a war widow, as far back as in 1969. Pursuant to the said allotment, symbolic possession was delivered to her on 01.08.1969, followed by physical possession of the specific khasra numbers on 13.03.1982, and a conveyance deed was also executed in her favour on 10.11.1987. The Sales Commissioner (vide order dated 18.03.1986), the Chief Sales Commissioner (vide order dated 06.10.1987), and the Commissioner, Jalandhar Division (vide order dated 08.08.1990) had all concurrently held that once the land stood allotted and possession had been delivered to the petitioner, it ceased to form part of the surplus or evacuee pool and was, therefore, not available for any further allotment.

4.2 The Financial Commissioner, however, while allowing the revision petition filed by respondent No.5, ignored these settled and concurrent findings and took a contrary view. Such an approach is legally unsustainable. Once the petitioner had been put in lawful possession of the land in question and even the conveyance deed had been issued; the land vested in her absolutely and the same could not be allotted to respondent No.5.

4.3 It is further noticeable that respondent No.5 never challenged the petitioner's allotment or the conveyance deed executed in her favour.

Instead, he was merely pursuing his independent claim for transfer of land on the basis of his alleged possession since Rabi 1976; although a similar plea raised by respondent No.5 seeking allotment of land on the basis of his alleged possession since Crop Rabi-1965, had already been negated in earlier proceedings. His prior claim asserting possession since Rabi 1965 had been dismissed by the competent authorities, and the said finding had attained finality upon dismissal of his writ petition (CWP No.404 of 1972) by this Court vide order dated 25.11.1981 (Annexure P-1). Having failed to establish his possession in those proceedings, his subsequent attempt to reopen the same issue by shifting the year of alleged possession was nothing but an abuse of process of law. Such a claim could not, by any stretch, nullify or invalidate the petitioner's lawful allotment, which had long attained finality with the execution of conveyance deed in her favour.

5. The subsequent order dated 30.05.1996 (Annexure P-9) passed by the learned Financial Commissioner (Taxation), Punjab, dismissing the petitioner's application for setting aside the ex-parte order dated 07.11.1994 (Annexure P-5), merely rubber-stamped the earlier order dated 07.11.1994 (Annexure P-5) without a fresh and independent application of mind to the substantive legal issues involved.

6. In light of the foregoing discussion, I am of the considered view that the orders dated 07.11.1994 (Annexure P-5) and 30.05.1996 (Annexure P-9) passed by the Financial Commissioner (Taxation), Punjab, are unsustainable in law and the same are accordingly set aside. The orders dated 18.03.1986 (Annexure P-2) passed by the Sales Commissioner, 06.10.1987 (Annexure P-3) passed by the Chief Sales Commissioner, and 08.08.1990 (Annexure P-4) passed by the Commissioner, Jalandhar

Division, which upheld the petitioner's allotment, are thereby maintained.

7. The writ petition is, thus, allowed and as a consequence thereof, the respondents are restrained from dispossessing the petitioner from the land in dispute, i.e., Khasra No.50//19/2 (3-9) and 19/3 (3-2), measuring 6 Kanals-11 Marlas, situated in Village Patti, Tehsil and District Hoshiarpur.
8. The instant writ petition is disposed of in the aforestated terms.
9. All pending application(s), if any, shall also stand closed.

30.10.2025
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No