



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-1-

108 (3 cases)

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

**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)
Date of Decision: 11.06.2025**

(I)

CWP-2949-1993 (O&M)

Jaipal Singh (Deceased) Through LR's. and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

(II)

CWP-2954-1993 (O&M)

Balwant Singh (Deceased) Through LR's.

..... Petitioners

Versus

State of Punjab and another

..... Respondents

(III)

CRM-42845-M-2004 (O&M)

Jaipal Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. S.S. Rang, Advocate
for the petitioners (in CWP-2949-1993).



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-2-

Mr. Jag Nahar Singh, Advocate
for the petitioner(s) (in CWP-2954-1993).

Mr. Ramesh Sharma, Advocate
for the petitioners (in CRM-42845-M-2004).

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. Kanwal Goyal, Advocate and
Ms. Sheena Dahiya, Advocate
for respondent No.2 (in CWP-2949-1993).

Mr. Rai Singh Chauhan, Advocate and
Mr. Rohit Sapehiya, Advocate
for respondent No.2(i) (in CWP-2954-1993).

Mr. Surinder Garg, Advocate
for respondent No.3 (in CWP-2949-1993).

None for respondents No.2 and 3 (in CRM-42845-M-2004).

HARSH BUNGER J.

This order shall dispose of three petitions bearing CWP No.2949 of 1993, CWP-2954 of 1993 and CRM-42845-M-2004 as they all involve common facts and issues.

2. Prayer in **CWP-2949-1993** is for issuance of a writ in the nature of Certiorari for setting aside orders dated 28.06.1990 (Annexure P-5) and 09.04.1991 (Annexure P-6) and also the allotment of 2 kanals 8 marlas of land in favour of respondent No.2 (Motu Ram) and auction of 2 kanals 3 marlas in favour of respondent No.3 (Banarsi Dass).

2.1 A further prayer has been made for directing respondent No.1- State of Punjab to restore the allotment of 4 kanals 11 marlas area to the petitioner(s), which was cancelled on 05.01.1965.

3. In **CWP-2949-1993**, the petitioner(s) claim that their father



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-3-

namely Sh. Inder Singh (since deceased) was allotted 40 standard acres- 3 $\frac{3}{4}$ units of land in the revenue estate of Samana, District Patiala on 03.08.1951 in lieu of land left by him in Pakistan.

3.1 Out of the aforesaid allotted land in favour of Sh. Inder Singh, an area measuring 4 kanals 11 marlas comprised in khasra No.185/25, 184/21 and 209/1/1 was cancelled on 05.01.1965 (Annexure P-1) by the then Managing Officer, Rehabilitation Department, Jalandhar on the ground that the area in question was urban at the time of allotment and therefore the same could not be allotted in lieu of the rural area left in Pakistan.

4. Petition (**CWP-2954-1993**), has been filed under Articles 226 and 227 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of Certiorari for setting aside orders dated 28.06.1990 (Annexure P-4) and 09.04.1991 (Annexure P-5) and also allotment of 17 kanals 1 marla in favour of respondent No.2 (Motu Ram) with a further direction to respondent No.1- State of Punjab to restore the allotment of 17 kanals 1 marla area to the petitioner(s), which was cancelled on 05.01.1965.

5. In **CWP-2954-1993**, the petitioner- Balwant Singh claimed that his father namely Sunder Dass (since deceased) was allotted land in Samana, District Patiala in the year 1950 in lieu of the land left by him in Pakistan, however vide order dated 05.01.1965 (Annexure P-1), land measuring 17 kanals 1 marla comprised in khasra No.141//24 (6-10), 164//3/2 (4-1), 4 (5-11), 8/1 (1-0) was cancelled by the then Managing Officer, Jalandhar on the ground that the aforesaid area in question was urban at the time of allotment,



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-4-

hence the same could not have been allotted in lieu of the area left in Pakistan.

6. For the purpose of passing this order, the facts primarily are being taken from CWP-2949-1993.

7. At the outset, it is apposite to note here that vide aforesaid order(s) dated 05.01.1965 (Annexure P-1) it was observed that alternate allotment in lieu of the cancelled area may be made in accordance with the rules and instructions of the department.

8. The petitioner(s) are stated to have submitted their respective claims for purchase of the 'cancelled area' in accordance with the Government instructions contained in Circular No.R-1-40733 dated 27.04.1960 by paying the difference of price between the urban and the rural land.

9. It appears that while the aforesaid claim of the petitioner(s) was pending, the then Tehsildar (Sales)-cum-Managing Officer, Patiala allotted 2 kanals 8 marlas area out of the cancelled area comprised in khasra No.184//21 (1-19) and 209//1 (0-9) to Sh. Motu Ram, etc. in the year 1977. Similarly, an area measuring 2 kanals 3 marlas comprised in khasra No.185//25 was sold by the Tehsildar (Sales) by way of auction in favour of respondent No.3 (Banarsi Dass) on 22.04.1982.

9.1 Likewise, in **CWP-2954-1993**, 17 kanals 1 marla area which was cancelled out of the allotment made in favour of Sh. Sunder Dass, the said area measuring 17 kanals 1 marla was also allotted to Sh. Motu Ram, etc. in the year 1977.



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-5-

10. Petitioners in both the writ petitions (CWP-2949-1993 and CWP-2954-1993) claim that while disposing of the above referred area by way of allotment/auction, no notice was issued to the petitioner(s) and upon learning about the same, they submitted their objection petitions before the Settlement Commissioner, Punjab.

11. On the other hand, it appears that the above referred allotment of land in favour of Sh. Motu Ram, etc. came to be cancelled by the Chief Settlement Commissioner vide his order dated 21.12.1981 (Annexure P-2) and feeling aggrieved against the same, Sh. Motu Ram, etc. preferred a petition under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (in short 'the 1954 Act') before the learned Financial Commissioner, Punjab.

12. While the above referred petition filed by Sh. Motu Ram, etc. under Section 33 of the 1954 Act was pending before the learned Financial Commissioner; the two separate objection petitions submitted by the petitioner(s) as regards the allotment/auction of the land in favour of Sh. Motu Ram and Sh. Banarsi Dass came to be considered by the Settlement Commissioner vide two separate orders dated 30.06.1983 (Annexures P-3 and P-4 respectively) wherein, while taking notice of the fact that the petition under Section 33 of the 1954 Act filed by Sh. Motu Ram, etc. was pending before the learned Financial Commissioner, the objection petitions submitted by the petitioner(s) were disposed of by remanding the matter to the Managing Officer, Patiala with the direction that the same be decided in the light of the learned Financial Commissioner's



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-6-

order, as and when pronounced.

13. Evidently, the petition under Section 33 of the 1954 Act filed by Sh. Motu Ram, etc. came to be considered by the Financial Commissioner along with other six petitions and all the seven petitions came to be decided vide a common order dated 28.06.1990 (Annexure P-5), the relevant extract of which reads as under:

“14. I have considered the arguments advanced on behalf of the parties and have gone through the record of the case. The written arguments submitted by the parties have also been perused. I am inclined to agree with the counsel for Smt. Darshanjit Kaur that land measuring 32 kanals, which had been purchased by her, from the Settlement Organisation of the Government of India on 13-2-1969 for Rs. 13,400/-, could not have been allotted to Motu and Naru Ram. Similarly, any deficiency in her claim upto the allotability limit of Rs. 15,000/- has to be made good. If as a result of sale by negotiations of land measuring 16 kanals 17 marlas to the Municipal Committee, Samana, on 10-6-1969, any short fall in the area to be transferred to Smt. Darshanjit Kaur as a lessee, for which price has already been assessed has occurred, it shall, have to be made good. This aspect of the matter, however, needs to be looked into, as according to the judgment of the High Court dated 3-3-1982 in C.W. No.873, it was contended by the Rehabilitation Department that her statutory right for the transfer of land as a lessee had already been satisfied. If after proper enquiry, it is found that she is entitled to any additional land, her claim be satisfied out of area in her unauthorised possession. There is, however, force in the contention of the petitioners that instead of dislocating them at this stage, the requirement of Smt. Darshanjit Kaur may be satisfied out of the



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-7-

area in her unauthorised possession. From the revenue record available on the file, it is evident that the following land is in her unauthorised possession in Samana:

104//10,	11	141//15,	186//1/2,	1/1/2,	2/2/2
'7-9)	(10-0)	(0-12)	(0-10)	(0-1)	(0-2)
80//13 min	24,	26,	23	106//12/1	108//15/2
(0-8)	(8-0)	(1-8)	(3-15)	(8-0)	(3-10)
					(2-14)
					(12-10)

The fact that the possession of the land previously purchased by Smt. Darshanjit Kaur and subsequently allotted to Motu Ram etc. has been with the latter for the last more than 10 years and as per averments that they have made lot of improvements in it, it would not be proper to disturb them. Another factor which tilts in favour of the allottees is that Smt. Darshanjit Kaur could not succeed against them in the civil courts. While her suit was dismissed by the Sub Judge Ist class on 21.10.1985, her appeal was dismissed on 2.5.1988. Keeping in view all these factors, I am of the considered view that 32 kanals of land purchased by Smt. Darshanjit Kaur may be given to her out of the land in her unauthorised possession. In this manner, Bhagwanti who is bonafide vendee of Sita Bai, daughter of Narain Dass, and is even otherwise protected under Section 41 of the Transfer of Property Act, would also be saved from being up-rooted.

15. *As regards the validity of the allotments made to Motu Ram etc., I, am of the view that in the light of categorical report of the Executive Officer, Municipal Committee, Samana, coupled with the judgment of the High Court (1980 PLJ 463) the land could not be treated as urban. The land which falls within the Municipal limits of Samana has already been cancelled at the instance of Motu Ram petitioner. There appears to be hardly any justification to cancel the remaining allotment relying on the map got prepared by the Tehsildar (Sales) Headquarters at the time of his visit to Samana, particularly in the absence of any material to vouch-safe its authenticity.*



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-8-

Besides, the factum of transfer of land of Samana to Karnail Singh in 1982 and its allotment to Fauja Singh 1987, as mentioned in para 7 above, lends support to the petitioners' contention. Further, the mere fact that the Rehabilitation Department has challenged the judgment of the Punjab and Haryana High Court (1980 PLJ 643) in the Supreme Court is no ground to deny its benefit to the petitioners, especially when no order of the Supreme Court staying operation of High Court's judgment has been brought to my notice by the State representative.

16. *So far as the plea of Malla Singh etc. that they are bonafide vendees and their area could not have been allotted, is concerned, I am in agreement with the counsel for Motu Ram allottee that they having purchased land from legal heirs of a bogus allottee, namely, Sobh Raj, could not be deemed to be bonafide vendees. From the revenue record produced by the counsel for Motu Ram, it is clear that neither Sobh Raj had taken possession of the land at any stage nor was his name incorporated in the jamabandi as owner of the land. It can, therefore, be safely presumed that the legal heirs of Sobh Raj acquired proprietary rights without first securing actual possession of the land. That being so, the action of the Managing Officer in conferring proprietary rights on the legal heirs of Sobh Raj could not be held to be valid. Furthermore, as per judgment reported in AIR 1971 P&H 251, the legal heirs of Sobh Raj were not competent to sell the land allotted to Sobh Raj to Malla Singh etc. The allotment of Motu Ram could not have been cancelled, especially when there was no entry in the revenue record regarding the factum of sale in favour of Malla Singh etc., when it was allotted to Motu Ram. More important, mutation No. 1600 regarding transfer of evacuee land to the ownership of Sobh Raj had been rejected by the Assistant*



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-9-

Collector 2nd Grade Samana on 22-8-1978. Malla Singh etc. also failed to get the land mutated in their names on the basis of the registered sale deed.

17. *For the reasons advanced by the counsel for the petitioners in para 12 above, the objections of Dewan Chand, Balwant Singh and Jai Pal Singh are untenable. Their allotments as per their own admission had been cancelled in the year 1965. If they felt aggrieved of the allotments made to the petitioners, the right course for them was to assail those allotments before the competent authority. Since they failed to do so, they cannot be allowed to challenge the aforesaid allotment for the first time in these proceeding, which are of residuary nature.*

18. *There is also weight in the contention of the applicant Motu Ram, now deceased in M.R. No. 6 of 1982-83 that M.R. No. 79 of 1981-82 preferred by Smt. Darshanjit Kaur against the order of Chief Settlement Commissioner dated 21.12.1981 could not have been accepted by my Learned predecessor on 4-5-1982 without any notice to the applicant, who was adversely affected. Now that the relief sought by the applicant has been given to him, there is hardly any necessity of specifically recalling the order of my learned predecessor dated 4-5-1982.*

19. *In view of my above discussion, I accept all the petitions, except M.R. No.6 of 1982-83, set aside the impugned orders and remand the case to the Tehsildar-cum-Managing Officer Samana, for further necessary action, in the light of the observations made by me in paragraph 14 above.”*

14. A perusal of the above extracted findings returned by learned Financial Commissioner would show that a categoric finding was returned as regards the allotment of land in favour of Sh. Motu Ram, etc. by



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-10-

observing that the allotment of land in favour of Motu Ram, etc., could not have been cancelled, accordingly, the petition under Section 33 of the 1954 Act filed by Sh. Motu Ram, etc. was accepted and the matter was remanded to the Managing Officer, Samana for further necessary action.

15. Feeling dissatisfied with order dated 28.06.1990 (Annexure P-5), the petitioner(s) herein sought rectification of the same by filing an application before the learned Financial Commissioner, however, the same was dismissed vide order dated 09.04.1991 (Annexure P-6).

16. In the aforementioned circumstances, the instant writ petitions (CWP-2949-1993 and CWP-2954-1993) have been filed by the petitioners in respect of their respective claims.

17. During the course of hearing of the writ petition(s) (CWP-2949-1993 and CWP-2954-1993), learned State counsel has informed that one Smt. Darshanjit Kaur, whose claim was also decided by learned Financial Commissioner while deciding the seven cases vide common order dated 28.06.1990 (Annexure P-5); had challenged the said order dated 28.06.1990 (Annexure P-5) by filing CWP-10519-1993 before this Court and the same was dismissed vide order dated 23.02.1994, wherein the allotment of land in favour of Sh. Motu Ram, etc. was maintained. It is further informed that an intra Court appeal (LPA No.157 of 1994) filed by Smt. Darshanjit Kaur was also dismissed by a Division Bench of this Court vide order dated 06.04.1994. Copies of the aforesaid orders dated 23.02.1994 passed in CWP-10519-1993 (reported as 1994 (2) RRR 425) and also order dated 06.04.1994 passed in LPA No.157 of 1994, have been handed over in Court



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-11-

today, which are taken on record, subject to all just exceptions and marked as Mark 'X' and Mark 'Y' respectively.

18. While referring to the aforesaid orders dated 23.02.1994 passed in CWP-10519-1993 and 06.04.1994 passed in LPA No.157 of 1994 (Mark 'X' and Mark 'Y' respectively), learned State counsel submits that since the allotment of land in favour of Sh. Motu Ram, etc. has been upheld, nothing survives in the writ petition(s) (CWP-2949-1993 and CWP-2954-1993) as far as challenge to order dated 28.06.1990 (Annexure P-5) and also the subsequent order dated 09.04.1991 (Annexure P-6) are concerned, accordingly, prayer has been made for dismissal of the same.

19. Heard.

20. As far as challenge to order dated 28.06.1990 (Annexure P-5) and order dated 09.04.1991 (Annexure P-6) are concerned, I would agree with learned State counsel that since the said orders have been upheld in CWP No.10519 of 1993 vide order dated 23.02.1994 (Mark 'X') and even an intra Court Appeal bearing LPA No.157 of 1994 stands dismissed vide order dated 06.04.1994 (Mark 'Y'), there is no scope for any interference so far as allotment of land in favour of Sh. Motu Ram, etc. is concerned.

21. Be that as it may, it cannot be lost sight of that while cancelling the allotment of land in favour of Sh. Inder Singh and Sh. Sunder Dass (predecessors of petitioners) in the above referred petitions. It was also ordered that alternate allotment in lieu of the cancelled area be made in accordance with the rules and instructions of the department.

22. Concededly, no such alternate allotment has been made till date.



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-12-

In view of the above, I deem it appropriate to dispose of the present writ petitions (CWP-2949-1993 and CWP-2954-1993) by directing the State of Punjab to consider the claims of the petitioners for alternative allotment of land in lieu of the areas which were cancelled out of their original allotments, in accordance with law. As the matter has been pending since the year 1965, I also deem it appropriate to direct that let the aforesaid exercise be carried out by the State of Punjab within a period of six months from today positively after affording due opportunity of hearing to the petitioners and/or their successors/legal heirs.

23. The present writ petition(s) (CWP-2949-1993 and CWP-2954-1993) stand disposed of accordingly.

24. All pending application(s), if any, shall also stand closed.

CRM-42845-M-2004 (O&M)

Prayer in the present petition is for setting aside order dated 03.12.2002 passed by the Additional Sessions Judge, Patiala and order dated 12.08.2004 passed by the Sub Divisional Magistrate, Nabha and for further quashing the Kalendera Report dated 27.06.2000 prepared by SHO, Police Station Samana, initiating proceedings under Sections 145 and 146 Cr.P.C.

2. The instant petition has arisen in respect of land comprised in khasra No.185/25 (2-3) which was originally allotted to the father of the petitioners namely Sh. Inder Singh, however, subsequently, the same was cancelled on the ground that the said area was urban area and therefore was not allotable.

3. Apparently, the aforesaid khasra No. 185/25 (2-3) was put to



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-13-

auction by the Tehsildar (Sales) and given to one Sh. Banarsi Dass. During the pendency of the above referred writ petition(s), the petitioners herein entered into a conditional agreement to sell in respect of the aforesaid khasra No.185/25 with one Sh. Gurdial Singh @ Ganesha (petitioner No.3) with a clear understanding that the said agreement to sell will be given effect to only if the writ petitions are decided in favour of the petitioners.

4. It transpires that respondent No.2 (Sham Lal) submitted a complaint before the Police Station, Samana alleging that there was a dispute in respect of khasra No.185/25, which is an evacuee land. It was alleged that the said area was un-allotted and that Sham Lal was in possession of the same, who had further given it to one Sh. Balbir Singh. It was stated that proceedings under Section 107/150 CrPC had already been taken and further action under Section 145 and appointment of receiver under Section 146 CrPC be made so that the possession of the said area be given to the person who has the right of possession thereon.

5. It appears that the Sub Divisional Magistrate, Nabha passed an order dated 28.12.2001 (Annexure P-3) observing that since the status quo order had been passed by the Punjab and Haryana High Court, therefore the proceedings under Section 145 CrPC in respect of the aforesaid land be dropped.

6. Apparently, Sh. Bharat Lal s/o Sh. Banarsi Dass challenged the aforesaid order dated 28.12.2001 (Annexure P-3) by filing a revision petition before learned Additional Sessions Judge, Patiala who vide its order dated 03.12.2002 (Annexure P-4) set aside order of the Sub Divisional Magistrate,



**CWP-2949-1993 (O&M),
CWP-2954-1993 (O&M) and
CRM-42845-M-2004 (O&M)**

-14-

Nabha.

7. On remand, the Sub Divisional Magistrate, Nabha again passed an order dated 12.08.2004 (Annexure P-5) whereby he appointed a receiver to manage the land.

8. In the aforementioned circumstances, the petitioners have filed the instant petition before this Court seeking the reliefs as noticed herein above.

9. At the time of preliminary hearing of this petition, vide order dated 13.09.2004 passed by a Co-ordinate Bench of this Court, the operation of order dated 12.08.2005 (Annexure P-5) passed by the Sub Divisional Magistrate, Nabha was ordered to be stayed.

10. Considering the fact that the petitioners herein have been entitled to alternate allotment of land, the present petition is disposed of with a direction to the concerned Sub Divisional Magistrate to hand over the possession to the State of Punjab through the concerned Deputy Commissioner who shall further allocate the same to its rightful claimant, in accordance with law.

11. All pending application(s), if any, shall also stand closed.

12. Photocopy of this order be placed on the files of above mentioned connected matters.

11.06.2025

Himani

**(HARSH BUNGER)
JUDGE**

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