

2025:PHHC:014499



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

CWP-15163-1999 (O&M)
Date of decision : 31.01.2025

BALDEV SINGH AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. J.S. Virk, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

Mr. Vijay Rana, Advocate
for respondents No.4 and 5.

HARSH BUNGER, J.

Prayer in the present writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a direction to official respondents to conduct enquiry with regard to the allotment of land in the name of Jagat Singh son of Ishar Singh through Smt. Parkash Kaur (respondent No.4) vide order dated 31.10.1984 (Annexure P-9) on the plea that the said allotment is a result of fraud and impersonation.

A further prayer has been made for setting aside the order dated 25.07.1995 (Annexure P-12) passed by the learned Financial Commissioner (Revenue), Punjab; whereby the *status quo* order dated 05.12.1991 passed by the Chief Settlement Commissioner, was set aside.

2. The undisputed facts, which emerge from the perusal of the pleadings of the parties, are that one Sh. Jagat Singh (father of respondent

No.4-Parkash Kaur) was allotted 7-8¼ S.A. Units in Village Jhugian, Tehsil Nakodar, District Jalandhar, vide order dated 16.06.1983 passed by the Tehsildar (Sales)-cum-Managing Officer, Jalandhar, in lieu of his land abandoned by Jagat Singh in Pakistan.

2.1 It has come on record that although in the Fard allotment in favour of Jagat Singh, the *khasra nos.* of the afore-said land was shown as “*barani* and *chahi*”, however, it was found that the same was situated in the bed of river Satluj and was unfit for cultivation. Accordingly, Smt. Parkash Kaur (respondent No.4) filed an appeal before the Settlement Commissioner, challenging the allotment dated 16.06.1983, which came to be accepted by the learned Settlement Commissioner vide order dated 09.01.1984, whereby Tehsildar (Sales)-cum-Managing Officer, Jalandhar was directed to provide an alternative allotment.

2.2 Thereafter, it transpires that Sh. Jagat Singh (father of respondent No.4) was allotted land measuring *120 kanals-15 marlas* at Village Bangiwal, Tehsil Nakodar, District Jalandhar vide order dated 31.10.1984 (Annexure P-9).

2.3 The afore-said order dated 31.10.1984 (Annexure P-9) was challenged by the present petitioners by filing an appeal before the Settlement Commissioner, however, the same was dismissed vide order dated 31.07.1985.

2.4 Still aggrieved, the petitioners preferred a revision petition before the Chief Settlement Commissioner, Jalandhar, which was also dismissed vide order dated 31.03.1986 (Annexure R-3). Thereafter, the petitioners preferred a petition under Section 33 of the Displaced Persons (Compensation and Re-habilitation) Act, 1954, which was also dismissed

vide order dated 31.05.1988 (Annexure R-4). It appears that the said order dated 31.05.1988 (Annexure R-4) was not challenged any further by the petitioners.

2.5 It transpires that out of the afore-said land allotted to Jagat Singh and pursuance of an order dated 09.05.1989 issued by Tehsildar (Sales)-cum-Managing Officer, Nakodar for execution of warrants of possession, possession of 43 kanals–11 marlas area was given to respondent No.4 through her attorney vide possession proceedings carried out on 26.05.1989 (Annexure R-5).

2.6 It appears that the petitioners challenged the above referred order dated 09.05.1989 by filing an appeal before the Settlement Commissioner, Punjab; which was dismissed vide order dated 24.11.1989 (Annexure R-6).

2.7 Still aggrieved, the petitioners preferred a revision petition before the Chief Settlement Commissioner, Punjab, which was also dismissed vide order dated 18.12.1989 (Annexure R-7).

2.8 Another revision petition filed by the petitioners before the learned Financial Commissioner (Appeals), Punjab was also dismissed vide order dated 06.06.1991 (Annexure R-8).

2.9 Apparently, the said order dated 06.06.1991 (Annexure R-8) was not challenged any further by the petitioners.

2.10 It appears that thereafter, the present petitioners filed a complaint (Annexure P-10) before the Chief Settlement Commissioner, Rehabilitation Department, Punjab, which reads as under :-

“Before the Deputy Secretary to Govt. Punjab-cum-Chief of Settlement Commissioner, Rehabilitation Department, Punjab at Chandigarh.

In re :

“Complaint against fraudulent allotment obtained in the name of Jagat Singh s/o Isher Singh through St. Parkash Kaur alias Piare d/o Jagat Singh, allottee of village Bangiwal, P.O. Umrewal Billa, Tehsil Nakodar, District Jullundur through her attorney Sh. Mukhtiar Singh retired A.S.I. s/o Sh. Piara Singh.”

Sir,

The complainant submits as under :-

- 1. That Shri Mukhtiar Singh alleged attorney of Smt. Parkash Kaur has obtained the land allotment in the name of Jagat Singh s/o Isher Singh through Smt. Parkash Kaur by way of fraudulent means. Even no Mutalba Claim was filed and as such she is not entitled to any compensation by way of allotment.*
- 2. That earlier land allotment was obtained in village Jhugian, Tehsil Nakodar, Distt. Jullundur on 29.10.84. This allotment is still intact and has not been cancelled till today so far.*
- 3. That the so called attorney Sh. Mukhtiar Singh has fraudulently obtained the land allotment in village Bangiwal, Tehsil Nakodar, Distt. Jullundur by concealing the true facts within 2 days i.e. 31.10.84.*
- 4. That till today nobody has been Smt. Parkash Kaur in the village Bangiwal without verifying the facts that earlier allotment made to Smt. Parkash Kaur in village Jhugian has actually been concealed at the spot or not. On the contrary this is the hard fact that her allotment in village Jhugian has pointed out above is still intact. A photo copy of the order dated 31.10.84 is attached herewith for kind perusal of the Hon'ble Court.*
- 5. That so called Smt. Parkash Kaur is not the legal heir of deceased allottee Jagat Singh and as such she could not execute general power of attorney in favour of the said Mukhtiar Singh.*
- 6. That the complainant are in peaceful and continuous possession of the land comprising of khasra Nos.4//10/2, 14, 16/1, 16/2, 17/1, 17/2, 5//15/6, 23, 24, 25, 2//21, 22, 23/1, 4//1, 2, 3/1, 8, 9, 10 min, 18/1, 18.2, 5//5, 6, 15/2 min, 24 min, 6//25 min, situated in village Bangiwal, Tehsil Nakodar, Distt. Jalandhar for the last more than 20 years and they have spent Rs.80,000/- on the improvement of the land in question. They are also*

entitled for its transfer by way of possession under the rules/instructions on the subject.

It is requested that the matter may be enquired and the allotments obtained by way of fraud in the name of Jagat Singh allottee in village Jhugian and Bhagiwan, Tehsil Nakodar, Distt. Jullundur may kindly be cancelled and it is further prayed that the dispossession of the complainants from the land in question may kindly be stayed till final decision of this complaint in the interest of justice and they may be allowed to purchase the area in question.

Complainants

1. *Baldev Singh*
2. *Swaran Singh both sons of Jiwand Singh.*
3. *Charan Singh s/o Narain Singh.*
4. *Rattan Singh s/o Teja Singh*
5. *Bachan Singh*
6. *Chain Singh all sons of Nihal Singh, village Bangiwan, P.O. Umrewal, Billa Tehsil Nakodar, Distt. Jullundur.”*

2.11 On the said complaint, the Chief Settlement Commissioner, Punjab passed an order dated 05.12.1991 (Annexure P-11), which reads as under :-

“Prosecuted by Sh. G.S. Nagra, Advocate, forwarded to Tehsildar (Hqrs)-cum-M.O. for enquiry and report. Meanwhile status-quo regarding possession be maintained.”

2.12 Respondent no.4-Parkash Kaur challenged the afore-said order dated 05.12.1991 (Annexure P-11) by filing a petition under Section 33 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (for short 'the 1954 Act') before the learned Financial Commissioner, Revenue, Punjab, which came to be allowed vide order dated 25.07.1995 (Annexure P-12), the relevant extract of which reads as under :-

“4. I have carefully considered the arguments advanced before me have also gone through the orders

passed earlier. I feel that there is considerable weight in the contention of the petitioner's counsel that the Chief Settlement Commissioner Punjab, Chandigarh has passed order without issuing notice to the petitioner and on the application whereby the respondents No.4 to 9 have concealed the facts i.e. orders dated 31.5.1988 and 6.6.1992 passed by the Hon'ble Courts earlier, which had in fact not been challenged by them, and had attained finality with the passage of time. Under the circumstances, I accept this petition, set aside the impugned order of Chief Settlement Commissioner, Punjab, Chandigarh dated 5.12.1991 and forward this petition for taking immediate step to have the order dated 31.5.1988 of this court implemented through the Tehsildar-cum-Managing Officer, Nakodar. The status quo regarding possession vide impugned order is hereby vacated."

3. In the afore-mentioned circumstances, the present writ petition has been filed before this Court.

4. Learned counsel for the petitioners submitted that the allotment of land made in favour of Jagat Singh through her daughter Parkash Kaur, is a result of fraud. It is submitted that the petitioners are in possession of the land, which has been allotted to Jagat Singh and even their claim for allotment of land, on the basis of possession, was pending before the government and without deciding the same, the land could not have been allotted to Jagat Singh. It is submitted that the petitioners had made a complaint to the police authorities for conducting an enquiry into the fraudulent allotment made to the attorney of respondent No.4- Parkash Kaur, however, nothing was done and in those circumstances, the petitioners had submitted a petition before the Chief Settlement

Commissioner, who vide order dated 05.12.1991, had forwarded the matter to the Tehsildar (Headquarters)-cum-Managing Officer, for enquiry and report and had further ordered *status quo* regarding possession. It is submitted that the said order dated 05.12.1991 (Annexure P-11) has been wrongly set aside by the learned Financial Commissioner, Revenue, Punjab vide order dated 25.07.1995 (Annexure P-12), without affording any opportunity of hearing to the petitioners.

5. Per contra, learned counsel appearing for respondents No.4 and 5 have opposed the submissions made on behalf of the petitioners by submitting that the petitioners had not come to the Court with clean hands and had obtained the order dated 05.12.1991 (Annexure P-11) by concealing material facts and even the enquiry was ordered without issuing any notice to respondents No.4 and 5. It is stated that order dated 05.12.1991 (Annexure P-11) has been rightly set aside by the learned Financial Commissioner, after taking into account the conduct of the petitioners that they had concealed the factum of earlier orders dated 31.05.1988 and 06.06.1981, which had already attained finality. Accordingly, prayer for dismissal of the writ petition has been made.

6. Heard.

7. A perusal of the paper book would clearly indicate that initially some land was allotted to one Jagat Singh (predecessor of respondent No.4-Parkash Kaur) in Village Jhugian, Tehsil Nakodar, District Jalandhar. However, since the said land of Village Jhugian was in the bed of river Satluj, accordingly, on an appeal filed by respondent No.4-Parkash Kaur, the then Settlement Commissioner, vide an order dated 09.01.1984 directed the Tehsildar (Sales)-cum-Managing Officer, Jalandhar

to provide an alternate allotment, whereupon the land in question in Village Bangiwal, Tehsil Nakodar, District Jalandhar, was allotted in the name of Jagat Singh (predecessor of respondent No.4-Parkash Kaur).

8. Evidently, the petitioners challenged the afore-said allotment by filing an appeal/revision, which was ultimately dismissed by the learned Financial Commissioner, vide order dated 31.05.1988 (Annexure R-4).

9. It has come on record that out of the land allotted to Jagat Singh, possession of *43 kanals-11 marlas* area was handed over to respondent No.4, vide possession proceedings dated 26.05.1989, which was also subjected to appeal/revision at the behest of the petitioners, wherein the final order came to be passed by the learned Financial Commissioner on 06.06.1991 (Annexure R-8).

10. Both the above-said orders i.e. 31.05.1988 (Annexure R-4) and 06.06.1991 (Annexure R-8) have attained finality as the said orders were never challenged by the petitioners before the higher authorities.

11. It is apparent from the records that the petitioners after having lost in the afore-said litigation, chose to file a complaint (Annexure P-10) before the Chief Settlement Commissioner. A perusal whereof would show that the petitioners had conveniently concealed the factum of the afore-said two orders (Annexures R-4 and R-8) and had succeeded in getting an order dated 05.12.1991 (Annexure P-11); whereby an enquiry was ordered to be conducted by the Tehsildar (Headquarters)-cum-Managing Officer. Apparently, no notice was issued to respondents No.4 and 5 before ordering for an enquiry.

12. Feeling aggrieved against the said order dated 05.12.1991 (Annexure P-11), the respondent No.4-Parkash Kaur preferred a petition

under Section 33 of the 1954 Act, which came to be allowed by the learned Financial Commissioner, after noticing that the present petitioners had not come to the Court with clean hands as they had concealed the factum of orders dated 31.05.1988 and 06.06.1991.

13. In my considered view, since the petitioners had filed a complaint (Annexure P-10) by concealing the material facts as regards orders dated 31.05.1988 and 06.06.1991 and had succeeded in getting an order dated 05.12.1991 (Annexure P-11), which was subsequently set aside by the learned Financial Commissioner, vide order dated 25.07.1995 (Annexure P-12), the petitioners are not entitled to any relief whatsoever, in view of the well settled law that whenever a litigant approaches the Court/Tribunal for redressal of his grievance then it is expected that he/she will approach the Court/Tribunal, not only with clean hands but also with clean mind, clean heart and clean objectives, failing which the litigant should be shown the exit door at the earliest point of time.

14. As regards the plea raised by the petitioners that they were not afforded any opportunity of hearing before passing of the order dated 25.07.1995 (Annexure P-12), it is observed that although, the said argument looks attractive at first blush, however, considering the fact that the petitioners had not approached the Court with clean hands, it does not lie in their mouth that they were not afforded any opportunity of hearing before passing of the order dated 25.07.1995. In fact, in earlier litigation challenging the allotment made in favour of Jagat Singh (predecessor of respondent No.4), the petitioners had lost upto the Court of learned Financial Commissioner and the said orders had attained finality, the petitioners chose to go ahead with another round of litigation by filing a

complaint on the plea that the allotment made in favour of Jagat Singh was fraudulent. In the peculiar facts and circumstances of the present case, the petitioners cannot be heard saying that no opportunity of hearing was afforded to them. In somewhat similar circumstances, Hon'ble the Supreme Court in *K.D. Sharma vs Steel Authority of India Ltd., 2008(12) SCC 481*, has observed as under :-

“46. In the case on hand, the appellant has not come forward with all the facts. He has chosen to state facts in the manner suited to him by giving an impression to the Writ Court that an instrumentality of State (SAIL) has not followed doctrine of natural justice and fundamental principles of fair procedure. This is not proper. Hence on that ground alone, the appellant cannot claim equitable relief....”

15. As regards the plea of the petitioners that they had also applied for transfer of land in their favour on the basis of their possession, it is the categorical stand of the State that the petitioners have no entitlement for the land in question as they were in illegal possession thereof and had not applied for transfer of land upto the date of order of allotment in favour of respondent No.4-Parkash Kaur. It has also come on record that the possession of the land in question already stands delivered to the legal heirs of the original allottee i.e. Smt. Parkash Kaur (respondent No.4).

16. Considering the totality of circumstances, I find no merit in the petition and the same is, accordingly, dismissed.

17. All pending application/s, if any, shall also stand closed.

January 31, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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