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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 480/1989 & CM APPL. 20085/2023

VED PRAKASH

.....Petitioner

Through: Mr. Vimal Tyagi, Advocate.

versus

DEV DUTT & ORS

.....Respondents

Through: Mr. Sanjeev Kumar Tyagi, Mr.
Mohit Tyagi, Advocates for R-1 to
7.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.03.2025

1. This writ petition was filed in the year 1989, for the following reliefs:

“(a) Issue a writ of certiorari quashing the impugned order dated 7.10.1988 made in case No. 169 of 1988 - CA by respondent No. 33;

“(b) Issue a writ of mandamus directing the respondents No. 33 to allot 2/8th share to the petitioner in the Bhumidari of Khewat No. 73 and 85 of village Burari in accordance with Order dated 8.2.1979 held final for the said purpose;

“(c) restraining the respondents No. 1 to 32 from transferring or alienating and/or permanently changing the status of land contained in the pre-consolidation and pre-land reforms Khewat No.73 and 85.”¹

2. The petition opens with the following averment in paragraph 1²:

“1. That the facts, circumstances and question of law involved in this petition are identical to those of C.W.P. No. 1874/88 in which Rule

¹ Emphasis supplied.

² Although the reference in paragraph 1 is to CWP 1874/1988, the reference was evidently to CWP 1847/1988, which has been made clear by an order of the Court dated 16.08.1990.



was issued by this Hon'ble Court on 26.8.1988 of which a true copy is enclosed as Annexure P-1. The parties and the subject matter of the two is also common.³"

3. C.W.P. 1847/1988 was filed by another branch of the same family as the petitioner herein, who also claimed to be co-sharers in the land in question [hereinafter, "the Ram Dutt branch"]. The petition was dismissed by judgment of this Court dated 01.12.2010, and an appeal of the petitioners therein [LPA No. 128/2011] was also dismissed on 01.02.2011. The petitioners therein filed SLP (C) 15358/2011 before the Supreme Court. By an order dated 06.07.2011, the Supreme Court directed that *status quo* be maintained by the parties, but ultimately the appeal was dismissed by a judgment of the Supreme Court dated 04.03.2016. An application seeking recall of the judgment dated 04.03.2016 was also dismissed by the Supreme Court on 12.05.2016.
4. The present writ petition, however, remained pending for substitution of legal heirs, which was ultimately completed before the Registrar on 25.01.2024.
5. In view of the judgment in C.W.P. 1847/1988, which has been upheld all the way to the Supreme Court, Mr. Sanjeev Kumar Tyagi, learned counsel for respondent Nos. 1 to 7, submitted that no further adjudication is required in this writ petition, which must also fail. This was noted in an order dated 06.02.2025, and learned counsel for the petitioner was directed to take specific instructions as to whether any issue survives for adjudication in the present writ petition.
6. On 10.02.2025, the counsel who was then appearing for the petitioner, submitted that the petition is, in fact, different from the earlier

³ Emphasis supplied.



writ petition. He was directed to file a written note identifying the differences which, according to him, entitled the petitioner to relief despite the averments contained in the writ petition itself and the submissions made to the Court on earlier occasions.

7. No note was filed. Instead, on the next date of hearing, i.e., 21.02.2025, a newly engaged counsel – Mr. Vimal Tyagi, appeared on behalf of the petitioner, and sought time. Time was granted subject to payments of costs, which Mr. Vimal Tyagi states, has been complied with on 25.02.2025. However, no written note has yet been filed.

8. Mr. Vimal Tyagi submits that the present petition and C.W.P. 1847/1988 were, in fact, different, to the extent that the co-sharer, who filed the said writ petition, filed proceedings for consolidation under Section 42 of the East Punjab Holdings [Consolidation and Prevention of Fragmentation] Act, 1948. It may be noticed in this connection, at the very outset, that the reliefs sought in the present petition also arise out of proceedings under the same Act. The order dated 07.10.1988 [challenged in prayer (a) of this writ petition] is an order of the Financial Commissioner passed under Section 42 of the same Act. Prayers (b) and (c) are consequential to the relief sought in prayer (a). The submission of Mr. Vimal Tyagi is, therefore, evidently misconceived.

9. In addition to the averment in paragraph 1 of the captioned writ petition, the petitioner has proceeded time and again on the basis that the two petitions are identical and filed by co-sharers analogously placed. Reference in this connection may be made to the following orders:

a. Order dated 12.02.1990, which records as follows:

“Learned counsel says that another petition filed by persons who are



equally situate as the petitioner herein, has been admitted by D.B.I. The number of that petition is Civil Writ Petition No.1874/88. It appears that it was admitted on 26th August, 1988. Let the file of that case be produced before us on 22nd February, 1990.”

- b. The number of the earlier writ petition was corrected by order dated 06.03.1990 to C.W.P. 1847/1988, and the record of that case was summoned.

- c. On 16.08.1990 and 24.09.1990, the Court recorded as follows:

“C.W. No. 480/89

Counsel refers to CW No. 1847/88 filed by the co-sharers which has been admitted.

Rule.

C.M. No. 717/89

Notice for 24.9.1990. In the meanwhile status-quo.

Order dated 24.09.1990:

C.M. 717/89

No one is present on behalf of respondents 21, 22, 27, 30, 31, 33 and 34 despite service.

Fresh notice to unserved respondents for 7th of December 1990.

Interim order made on 16th of August 1990 will continue till further orders.”

- d. The interim order was thereafter continued from time to time.
- e. Order dated 22.04.2014, which records as follows:
- f. Pursuant to the disposal of C.W.P. 1847/1988, the petitioner herein again placed emphasis on the similarity of the two cases and sought an adjournment relying on the pending proceedings before the Supreme Court, and the interim order dated 06.07.2011 passed therein. The relevant portion of order dated 22.04.2014 reads as follows:

“2. Learned counsel for the respondent nos. 1 to 5 submits that it is an admitted case of the parties that the question involved in the present



petition is identical to those raised in W.P.(C) No. 1847/1988 entitled "Ram Dutt &Ors. Vs. Dev Dutt &Ors." To substantiate the aforesaid submission, he refers to the averments made by the petitioner in para 1 of the writ petit on. He submits that along with list of dates and events, he has filed a copy of the judgment dated 01.12.2010 rendered by a Coordinate Bench, dismissing the aforesaid petition and as a result, the present petition also deserves to be dismissed.

3. Learned counsel for the petitioner submits that the aforesaid decision dated 01.12.2010 had been challenged by the petitioner in the aforesaid petition by filing an appeal and on 1.2.2011, the Division Bench had dismissed the said appeal. Aggrieved by the aforesaid dismissal order, the petitioner therein had filed SLP (C) No. 15358/2011 before the Supreme Court. The Court is informed that the aforesaid SLP is provisionally listed for hearing on 22.07.2014 and by an earlier order dated 06.07.2011, the Supreme Court had directed that status quo be maintained by the parties.

4. Learned counsel for the parties submit that the present matter may be adjourned to await the decision of the Supreme Court.

5. At joint request list on 11th September, 2014."

10. In view of the fact that the Supreme Court has already negated the case of similarly placed co-sharers, who belonged to the same family as the petitioner, it is not necessary for this Court to revisit the facts or legal question in detail. Suffice it to note that consolidation proceedings took place in 1975-76, which culminated in an order of the Financial Commissioner dated 08.02.1979. The Consolidation Officer thereafter modified the allotments to the various co-sharers, by an order dated 31.12.1982, purportedly in order to implement the order dated 08.02.1979. The Financial Commissioner rejected a revision petition filed by the Ram Dutt branch of the family, against the order of the Consolidation Officer, by order dated 14.06.1983. This order was confirmed by this Court by order dated 11.02.1985 in CWP 2462/1984, and the Supreme Court by order dated 27.01.1986 in SLP (C) 9594/1985. However, the Supreme Court granted liberty to Ram Dutt branch to file a



suit before the Revenue Assistant seeking allocation of its share. The suit was filed, but later withdrawn.

11. In the meanwhile, the petitioner herein had also challenged the order of the Consolidation Officer dated 31.12.1982. The Financial Commissioner, by an order dated 13.04.1987, remanded the matter to the Consolidation Officer for proper implementation, which was upheld by this Court [order dated 12.08.1987 in C.W.P. 2337/1987]. The Ram Dutt branch then filed a revision petition before the Financial Commissioner, after withdrawal of its suit. The Financial Commissioner by order dated 11.11.1987, permitted them to approach the Consolidation Officer, who in turn passed an order dated 12.07.1988, apportioning the land among the family members. He noted that 94 Bighas and 15 Bishwas of land remained unallocated.

12. It is this aspect that has given rise, both to C.W.P. 1847/1988 and to the present writ petition. The present petitioner's challenge was rejected by the Financial Commissioner by an order dated 07.10.1988, whereas the Ram Dutt's branch challenge was rejected by an order dated 09.08.1988. The order dated 09.08.1988 has been unsuccessfully challenged all the way upto the Supreme Court.

13. Mr. Sanjeev Kumar Tyagi has filed a note comparing the pleadings in the two writ petitions, which shows that the pleadings and documents filed by the petitioners in both cases are also substantially aligned.

14. In these circumstances, I am unable to discern any material difference between the two cases as now sought to be asserted.

15. Having regard to the above, I do not find it appropriate to permit the petitioner to resile from his own statement, that the petition is



“*identical*” to C.W.P. 1847/1988. That petition, having been dismissed by this Court and the challenge thereto also having been dismissed by the Supreme Court and review declined, this petition must suffer the same fate. The writ petition is therefore dismissed.

16. The petitioners have caused a considerable expenditure of judicial time by their persistence in this misadventure, despite the judgment of the Supreme Court dated 04.03.2016. Mr. Vimal Tyagi, learned counsel for the petitioner, candidly left the matter to the Court as he had not been properly instructed. However, the petitioner cannot be absolved of the consequences of his actions. His belated plea that his case is not covered by the earlier round of litigation was totally misconceived. He is therefore burdened with costs of Rs.50,000/-, to be deposited with the Delhi High Court Legal Services Committee [*UCO Bank, Delhi High Court, Shershah Road, New Delhi, Account No. 15530110008386, IFSC Code-UCBA0001553*] within a period of four weeks.

17. Affidavit of compliance be filed within five weeks.

PRATEEK JALAN, J

MARCH 5, 2025

‘Bhupi/PV/JM’/