

3. The claim of the plot was based upon the acquisition of land measuring 7350 sq. yards, situated in village Gill, Tehsil and District Ludhiana, owned by Sh. Sadhu Ram, father of the respondents/decreed-holders.

4. The said suit was partly decreed vide judgment and decree dated 13.05.2014 (Annexure P-2) passed by the Court of Civil Judge (Sr. Divn.), Ludhiana. The operative part of the said judgment and decree is as under:-

“21. In view of discussion above the present suit succeeds and is partly decreed in favour of plaintiffs and against defendants with costs by holding that plaintiffs are entitled to declaration that they are entitled to be considered for the allotment of plot as per their entitlement under the new policy in the light of law being laid down by Full Bench of Hon’ble Punjab and Haryana High Court in case titled as Jarnail Singh and others vs. State of Punjab and another, 2011 AIR Punjab 58 being the locally displaced persons oustees whose land has been acquired by State Government for public purposes and defendant Trust will constitute a committee within a period of two months from the passing of this judgment and the said committee will pass a speaking order within period of six months from constitution of this committee in accordance with the above said new policy being framed by State Government to determine the claim of plaintiffs for the allotment of the plot.”

5. Aggrieved by the said decision, the petitioners/JDs instituted an appeal which was dismissed by the Court of Additional District Judge, Ludhiana vide judgment and decree dated 25.05.2017 (Annexure P-3), with the following observations:-

“16. In view of discussion held in preceding paragraphs of this judgment, this Court is of the considered opinion that there is no infirmity in judgment passed by Ld. Lower Court which has found respondents entitled to be considered for the allotment of plot as per their entitlement under the new policy. There is no merit in present appeal also. Hence, it is ordered to be dismissed...”

6. As per the petitioners/JDs in compliance of the directions issued by the trial Court, speaking order dated 19.09.2023 (Annexure P-4), was passed.

7. However, in an execution petition filed by the respondents/decreed-holders, the executing Court directed the petitioners/JDs, to allot a plot to the respondents/decreed-holders as per the Improvement Trust Rules, 1964 and as per the decree passed on 13.05.2014. However, an application filed by the petitioners/JDs for withdrawal of the show cause notice and for directing the respondents/decreed-holders to provide the original receipt of the amount deposited along with other necessary documents, was dismissed.

8. I have heard learned counsel for the parties.

9. Learned counsel for the petitioners has strenuously urged that the impugned order is not sustainable. It has been argued that an executing Court cannot go beyond the decree and cannot interpret the same. It has been argued that pursuant to the directions issued by the trial Court, a speaking order was duly passed. It has been argued that despite the same, the executing Court ordered the petitioners to allot a plot to the respondents/decreed-holders, whereas, no such direction had ever been issued by the trial Court or by the first appellate Court. Learned counsel has referred to the decisions of the trial Court and the first appellate Court, as also to the speaking order passed by the petitioners/judgment-debtors and has submitted that the impugned order is not sustainable.

10. *Per contra*, learned counsel for the respondents has, with equal vehemence, submitted that there is no illegality in the impugned order. While referring to the observations of the trial Court in the judgment and decree dated 13.05.2014, learned counsel has submitted that the petitioners/judgment-debtors did not constitute the committee within the time frame stipulated by the trial Court and also did not afford any personal hearing to the respondents/decreed-holders, thereby gravely impacting their rights. It has been argued that under similar circumstances, land losers had

been allotted plots but only since the judgment of the Full Bench of this Court in the case of ***Jarnail Singh and others vs. State of Punjab and another, 2011 AIR Punjab 58***, subsequently came, the civil suit was disposed of with a direction to the petitioners/judgment-debtors, to pass a speaking order. It has been argued that no illegality was committed by the executing Court by directing the petitioners/JDs to allot a plot.

11. I have considered the submissions made by learned counsel for the parties.

12. If one peruses the directions issued by the trial Court which have been reproduced in the preceding paragraph and the observations of the first appellate Court, it emerges that no direction was given at any point of time to allot a plot and the only direction was as regards consideration. The executing Court went a step ahead and after interpreting the policies etc. and gave a direction to the petitioners/judgment-debtors for allotting a plot to the respondents/decreed-holders. The relevant portion of the order under challenge is as under:-

“After hearing the contentions of learned counsel for the parties, and after perusing the case file carefully, it is evident that the JDs have placed on record the order dt. 19.09.2023 passed by the committee, which is arbitrary wrong, beyond scope and jurisdiction and against the principle of natural justice as the order is not speaking order. The committee of the JD has passed the order to the contrary of the judgment and decree passed by the Civil Courts as it is specifically mentioned in para no.14 of the judgment and decree dt. 13.05.2014 passed by the court of Sh. Jagdeep Sood, the then learned Civil Judge (Sr. Div.), Ludhiana para no. 18 of which is reproduced as below:-

"So defendant Trust will constitute a committee within a period of two months from the passing of said judgment and the said committee will pass a speaking order within six months from the date of constitution of this committee in accordance with the abovesaid new policy being framed by State Government to determine the claim of the plaintiffs for the allotment of the plot".

So, it was the duty of the JD Trust to constitute the committee within period of two months from the date of judgment, but for 9 years

they remained silent. There is specific mention in the judgment regarding the declaration given in favour of the plaintiff that the claim of the plaintiff is required to be considered in the light of new policy framed by State Government as per directions issued by Full Bench of Hon'ble Punjab and Haryana High Court and on the principle of priority, the plaintiffs are entitled to be considered for allotment of plot being local displaced person in the light of that new policy.

As per Improvement Trust Rules 1964, which are applicable for the allotment of the plot to the DH as Sadhu Ram was co owner in the joint land with Lajwanti and others. Even JDS have already allotted the plots to other co-sharers who applied for allotment of the plot in the year 1985 without depositing the earnest money. So the report of the committee that an application was required to be submitted by Sadhu Ram as per Rules 2021 before the Ludhiana Improvement Trust within period of three years form taking over possession of the land and on that ground Sadhu Ram was held to be not entitled as the conditions have not been complied with is wrong. As no such Rules have been mentioned at the time of passing of final judgment in civil suit titled as Devi Parshad Vs. LIT by the JDs. As all the DHs are the LR of Sadhu Ram deceased and his land was acquired by the Trust in the year 1974 for development of 400 acre development Scheme and the LAC announced award on 05.08.1977 and Land Acquisition Tribunal announced award on 19.02.1986 and plaintiffs given application for allotment of plot in the year 1985. Although there is no provision for allotment of plot to Local displaced persons in the Rules 2016, but these rules are not applicable in the present case. Even there is no limitation as per Trust Rules 1964 for applying the allotment of the plot. Even Hon'ble Punjab and Haryana High Court in Rajinder Kumar vs. State of Punjab and another, 2010(1) Punjab Law Reporter 49, held that utilization of land and allotment of plots by Improvement Trust Rules, 1983 cannot be made applicable retrospectively as the land of the petitioner was acquired in 1976 and it was held that how the petitioner and her co-sharer can be stopped from getting allotment of separate plots in their individual capacity.

In Jarnail Singh and others vs. State of Punjab and others, 2011(1) R.C.R. (Civil) 915, Hon'ble Punjab and Haryana High Court has held as under:

"Compulsory Acquisition of land for public purpose Oustees of land form a different class and entitled to preferential treatment that the general public.

A. Land Acquisition Act, 1894, Sections 4 and 6 Compulsory acquisition of land by Govt. for public purpose According to Policy of Govt. all joint owners of any one Khata are entitled to only one plot as a rehabilitation measure The policy restricting the allotment

of one plot to all co -owners is irrational, arbitrary and with no reasonable nexus with the objective to be achieved and thus, no sustainable and illegal and void. A co-owner, as per the eligibility criteria fixed by the State Government, shall be entitled to be considered for allotment of plot irrespective of the fact that his holding of land is joint with other co-owner Further held:-

(i) Oustees whose land is compulsorily acquired for public purpose form a different class of persons and entitled to preferential allotment than the general public.

(ii) The oustees, as a class in themselves, would be entitled to reservation of plots to such an extent as the State Government 1 may deem appropriate.

(iii) State Government shall be at liberty to rframe policy for reservation of plots to constitutionally permissible classes and within limit of 50/% of plots...

So there are findings of Civil Court that Improvement Trust Rules 1964 are applicable for the allotment of plot to the DH. Accordingly, the report submitted by the committee is wrong and the objections filed by the DH are accepted. So the JDs are directed to allot the plot to DH as per Improvement Trust Rules, 1964 and as per decree passed on 13.05.2014.”

13. A bare perusal of the order shows that the executing Court travelled much beyond the decree which it was not entitled to do. It is well settled that an executing Court cannot go beyond a decree. Once there was no direction by the trial Court for the allotment of a plot, the respondents/decreed-holders could, had they been aggrieved of the same, filed an appeal against the decision of the trial Court. However, they did not file any appeal and the appeal was filed by the petitioners/JDs, which too was dismissed. Even if, for the sake of arguments, it is found that the speaking order passed by the petitioners/judgment debtors was not sustainable, it would not be for the executing Court to interpret that order and then give a direction for the allotment of a plot by going beyond the decree. Viewed from any angle, the order passed by the executing Court is not sustainable. In the considered opinion of this court, the executing Court exercised jurisdiction not vested in it.

14. That being so, the revision petition is allowed and the order dated 17.01.2025 (Annexure P-1) passed by the Court of Civil Judge (Sr. Divn.), Ludhiana is set aside.

Pending application(s), if any, stand(s) disposed of accordingly.

(VIKRAM AGGARWAL)
JUDGE

April 16, 2026
vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No