

(2005) 08 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 4269 of 2005

Datar Singh and Others

APPELLANT

Vs

Financial Commissioner and
Others

RESPONDENT

Date of Decision: Aug. 2, 2005

Acts Referred:

- Punjab Package Deal Properties (Disposal) Act, 1976 - Section 15(1)

Citation: (2005) 141 PLR 738 : (2005) 4 RCR(Civil) 94

Hon'ble Judges: J.S. Narang, J; Baldev Singh, J

Bench: Division Bench

Advocate: G.S. Nagra, for the Appellant; Ashok Aggarwal, Addl. A.G., for the Respondent

Final Decision: Allowed

Judgement

J.S. Narang, J.

The father of the petitioners was owner of land in West Pakistan and after being displaced therefrom staked his claim for commensurate allotment pursuant to the Punjab Package Deal Properties (Disposal) Act/Rules, 1976 (hereinafter referred to as "the Act"). He was allotted land in village Batala Shrki, Batala Garbi, Kala Afgana and Badowal Kalan, Distt. Gurdaspur. However, the dispute was raised which relates to 8 Standard acres 8-3/4 units of village Badowal Kalan. In fact, this area was allotted to one Smt. Dayal Kaur widow of Isher Singh through her legal heirs Buta Singh son of Kesar Singh, Surain Singh son of Bila Singh, Asha Singh son of Mulla Singh and Jagir Singh son of Teja Singh of village Badowal, Tehsil Batala, District Gurdaspur and excess area measuring 5 standard acre's 5-1/2 units was cancelled vide order dated June 26, 1961, by the Chief Settlement Commissioner, Punjab, Jalandhar. A review petition was filed by the aforestated legal heirs, which was dismissed by the Chief Settlement Commissioner vide order dated March 6, 1968. The aforestated orders were challenged by way of C.W.P. No. 1243 of 1968, which was dismissed by this Court vide order dated April 5, 1968, the SLP registered as

Civil Appeal No. 1381 of 1969, was dismissed on December 1, 1978. Resultantly, the allotment made to Kartar Singh on 3.1.1967, was upheld. As a sequel thereto the Rehabilitation Department was bound to put the petitioner into possession of the land so allotted. Instead the land was allotted to some other private respondents. The petitioners filed revision petition before the Chief Sales Commissioner, Gurdaspur against the order of Tehsildar Mall-cum-Sales Batala as well as order of confirmation of Sales made by the Sales Commissioner, Batala. The hearing of the case was adjourned sine die by order dated 11.6.1997. The petition filed u/s 15(1) of the Act, was dismissed vide order dated 25.11.2003, this order as also the order dated 11.6.1997, have been made the subject-matter of challenge in the present petition.

2. Notice of motion was issued and the respondents have filed written statement. The stand of the respondents is totally misconceived and the evasive reply has been filed, though, it has been admitted that the file relating to the claim of the petitioners could not be located and it has been averred that the alleged allotment record pertaining to the petitioners is not available with the department. Resultantly, the petitioners are themselves responsible to prove the genuineness of their allotment in village Badowal Kalan.

3. We have heard learned counsel for the parties and have also perused the paper-book as also the orders impugned before us.

4. A strange reply has been filed by the respondents through Mr. Viney Sharma, Tehsildar Mall-cum-Sales, Batala. It looks that the Chief Sales Commissioner, Gurdaspur, evaded himself from filing the written statement in this Court. Such practice on the part of such officer is deprecated. On the one hand ridiculous orders are passed observing that the file is not traceable and, therefore, in the absence of the original order, it is not possible for the official to dispose of the revision petition. The revision petition has been adjourned sine die for a period of three months or till the whereabouts of the allotment files are traced out by the parties. It shall be apposite to notice the observation of the official concerned, which, reads as under:

"2. Today the learned counsel for the petitioners as well as of the respondent and also Shri Gian Chand, Tehsildar, Bataia (respondent No.1) are present. I have heard them. The petitioners as well as the respondents have disclosed today the litigation between the parties on this very matter has been going on in the Hon"ble Punjab and Haryana High Court as well as in the Hon"ble Supreme Court of India and that they feel that the relevant file/record might have gone to the High Court/Supreme Court of India. In the absence of the original record, it is not possible for me to dispose of this revision petition. The parties have taken upon themselves the responsibility to find out where the original allotment file is lying. The petitioner further agreed to get the revision petition restored"as and when he got the correct information about the whereabouts of the original allotment file.

3. In view of the above situation, this revision petition is adjourned sine die for a period of three months or till the whereabouts of allotment file are found by the parties. The file be consigned into the Record Room.

Announced.

11th June, 1997

Sd/-

Chief Sales Commissioner
Gurdaspur "

5. The officials who are required to exercise quasi-judicial powers ought to behave in a responsible manner. It is absolutely irresponsible manner, in which the official has conducted himself. Apart from this, we are certainly not happy with the manner in which the learned Financial Commissioner has dealt with the matter. It is nowhere the case of anyone that the petitioners as well as the respondents have taken upon themselves the responsibility to find out where the original allotment files were lying, how can a party have access to the original record in the office. It is the bounden duty of the officials to maintain the record correctly and they cannot be allowed to take such plea that the original record is not traceable. If the same was not traceable, certain procedures are provided and which ought to be followed by the concerned officials but none is stated to have been adhered to.

6. In view of the above, the learned Financial Commissioner is requested to hold an enquiry into the manner and the method in which the Chief Sales Commissioner, has conducted himself and further what steps have been taken for retrieving the original record which is ought to be in the custody of the officials concerned.

7. In view of the above, the petition is allowed and the impugned orders dated 11.6.1997, copy Annexure P-8 and order dated 25.11.2003, copy Annexure P-9, are quashed. The Chief Sales Commissioner is directed to pass a quasi judicial Order on the revision petition which is pending before him after tracing out the record accordingly. It is directed that the matter be decided by the Chief Sales Commissioner within a period of three months after giving opportunity of being heard to the parties concerned.

8. Certified copy of this order be supplied to the learned Addl. Advocate-General for onward transmission to the quarters concerned.