
(2022) 03 J&K CK 0039

In the Jammu And Kashmir High Court

Case No : Others Writ Petition No.1242 Of 2017

Gajinder Singh And Another

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Citation : (2022) 03 J&K CK 0039

Hon'ble Judges : Sindhu Sharma, J;Puneet Gupta, J

Bench : Division Bench

Advocate : Dhiraj Chowdhary, Vishal Bharti, S.S. Nanda

Final Decision : Disposed Of

Judgement

Sindhu Sharma, J

1. The petitioner No. 1 donated 02 Kanals and 08 Marlas of land comprising Khasra No. 733/275 min situated at village Badhole, Ramnagar, District Udhampur for the construction of School building in the year 1985. The land was donated on the assurance that services of his wife-petitioner No. 2 herein, who was already engaged after the death of his mother-in-law in harness and was working as a Waterman-cum-Cook in the School on consolidated basis, would be regularized.

2. The respondents, failed to regularize the services of his wife-petitioner No. 2, therefore, she approached this Court by filing a writ petition bearing ?SWP No. 1408/2001? titled "Suresh Kumari vs. State of J&K and ors". This writ petition was disposed of by this Court vide order dated 16.05.2008 on the following observations:

1) That the respondents shall consider the case of the petitioner for regularization of her services against the post on which she has been working on consolidated basis in lieu of the land donated by her husband for a public cause.

2) That in case the respondent authorities are of the view that the services of the

petitioner cannot be regularized, then the compensation for the land taken by them would be paid to the husband of the petitioner in accordance with the rules. The compensation would be assessed at the prevalent market value.

3) The husband of the petitioner will be entitled to the rent of land/lease money along with interest at the rate of 6% per annum from the date the same was taken in possession by the respondents. The said entitlement of the husband of the petitioner would become effective only if the case of the petitioner is not considered for regularization of her services.

4) The husband of the petitioner shall execute an instrument of transfer of the land in favour of respondent Education Department of the State, in case, respondent authorities consider the case of the petitioner for regularization of her services.

5) Let the whole exercise be completed by the respondent authorities within a period of two months from the date a copy of this order is made available to them by the petitioner.

6) That in case, no action is taken by the respondent authorities within the above stipulated period they will deliver back the possession of the land to the petitioner. However, in that eventuality, they will have to pay rent of the land along with interest aforementioned for the period, it remained under their possession.

3. The respondents did not regularize the services of petitioner No. 2 on the post she was working despite the donation of land by her husband for public cause, therefore, as per the judgment dated 16.05.2008, decided to pay the compensation to the petitioner, for the land utilized by them for the School building as per the market value along with the interest on the same.

4. The Deputy Commissioner, Udhampur, accordingly, vide his communication dated 21.09.2011 sought funds to the tune of Rs. 2,88,000/-for compensation of land measuring 02 Kanals and 08 Marlas situated at village Badhole, Tehsil Ramnagar, District Udhampur as per the indent given by the Chief Education Officer vide letter No. CEOU/legal/17951-54 dated 05.09.2016. The acquisition proceedings were initiated by the Collector Land Acquisition, SDM Ramnagar for land in Khasra No. 733/275 min for Govt. Middle School, Badhole in view of the judgment in case titled "State vs. Suresh Kumari" by Collector Land Acquisition, SDM Ramnagar. The SDM Ramnagar issued notification under Section 4(1) of the case and due to urgency, private negotiations were conducted and on 21.09.2016 the rate of Rs. 1, 20,000/- per Kanal was approved in the case, therefore, an amount of Rs. 2, 88,000/- as land compensation was settled.

5. Learned counsel for the petitioners submits that the petitioners have received a sum of Rs. 3,61,000/- but the balance amount of rupees One Lakh Twenty Four Thousand Ninety Nine, due to them has not been paid. The petitioners submit that as the judgment was not implemented and compliance of the same was

sought by filing a contempt petition. In the contempt petition, the claim of the petitioners was with regard to a sum of Rs. 82,099.2/-. The contention of the respondents was that the entire amount due to the petitioner has been paid. The proceedings in the said contempt petition were closed vide order dated 08.11.2016, by observing that the dispute is with regard to the calculation of quantum of rent payable to the petitioner, as such, liberty was granted to the petitioner to take recourse to any remedy provided under law with regard to her grievance.

6. Learned counsel for the petitioners submits that they have not received the entire compensation due to them. In terms of the judgment dated 16.05.2008, the petitioners were entitled to compensation for 03 Kanals of land i.e Rs. 3,30,000/- and rent for the same for 31 years i.e. 1985 to 2016 i.e Rs. 1,46,320/- and also the interest on the same at the rate of 6% i.e. Rs. 8,779.2/-. Thus, the total compensation due to them would be Rs. 4,85,099.2/-. The respondents have already paid an amount of Rs. 3,61,000/- and, therefore, the balance amount of Rs. 1,24,099.2/- due to them is yet to be paid.

7. The respondents on the other hand submit that, as per the report received from Revenue Department only 02 Kanals of the land i.e Khasra No. 733/275 owned by Surinder Singh and others is entered in the name of Education Department and they have been paid Rs. 45,000/- i.e., rent arrears w.e.f. February, 1997 to August, 2010 along with 6% interest per annum plus Rs. 2,88,000/- as land compensation for 02 Kanals and 08 Marlas plus Rs. 28,320/- as rent of land w.e.f. 01.09.2010 to 30.06.2016 plus Rs. 6,669/- as interest at the rate of 6%. Thus, the land of the petitioner which he donated for School building was 02 Kanals and 08 Marlas, as per the communication of the Deputy Commissioner, Udhampur dated 21.09.2011 and the compensation for the same already stands paid by the respondents.

8. The only issue which remains is regarding the entitlement of the petitioners to receive rent for the land. The rent claimed by the petitioners is @ Rs. 4,720/- w.e.f. 1985 to 2016 (31 years), whereas the respondents have paid rent from February 1997 to 2016. Admittedly, the rent due to the petitioners would be from the date of possession of their land till the year 2016. The petitioners have been paid rental compensation from February 1997, so far as their entitlement of rent from the year 1985 is concerned, nothing is forthcoming from the record regarding the same, though, the same would be due to the petitioners in terms of the judgment dated 16.05.2008, which has attained finality.

9. In view of the peculiar facts and circumstances of the case and the fact that the parties are in litigation since 2001, we deem it appropriate to dispose of this petition by directing the Deputy Commissioner, Udhampur to determine the issue of rent, if any, due from the date of actual possession of the petitioners' land after considering the record and by passing a speaking order in this regard. He may also hear the parties by issuing notice to them. Let this exercise be completed within a period of three months from the date a copy of this order is

made available to the respondents by the petitioners.

10. Disposed of in the terms aforesaid.