

(2011) 11 P&H CK 0118

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4758 of 1987 (O and M)

Mohar Singh

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Citation : (2011) 11 P&H CK 0118

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The petitioner challenges the order by the authority constituted under the Displaced Persons (Compensation and Rehabilitation) Act of 1954. The petitioner is a purchaser from an allottee of a property viz. Jaimal Singh son of Sant Singh (7th respondent herein) in an extent of 5 standard acres and 5 1/2 units. It was sought to be cancelled by the State on the ground that the allottee had made a fraudulent representation as though he was entitled to the whole of the extent. The State's justification for cancellation of the allotment was that Jaimal Singh son of Sant Singh was entitled only to 2 standard acres and 7 1/2 units and while Jaimal Singh son of Mit Singh was entitled to 2 standard acres and 5 1/2 units. The allottee had taken advantage of the fact that he had the same name as another and got allotted the whole extent.

2. The contention by the learned counsel for the petitioner is that there was no proof at all that there was yet another person by name Jaimal Singh son of Mit Singh and at no point of time he was involved in any enquiry. It was also contended that he was himself a bona fide purchaser having purchased the property from the original allottee for a consideration of Rs.60,000/-on 17.05.1971. His contention was that the purchase was made nearly 21 years after the allotment and the cancellation could not have been made so as to affect his right as well.

3. If there had been a fraud of the allottee as originally contended without proof that there was yet another person of the same name Jaimal Singh son of Mit Singh, there could not have been cancellation at all. I see the force of the contention that even without joining yet another person Jaimal Singh son of Mit Singh, the cancellation of allotment in favour of the 7th respondent could not have been made. The learned counsel for the State contends that there are now records available to show that yet another person Jaimal Singh son of Mit Singh was entitled to allotment and they have come by relevant records including revenue entries showing the entitlement to yet another person who is referred to in the impugned order. He seeks for time for production of the said document. I cannot accept the document without any proof and cannot also allow the same to sustain the order already passed by the authorities. If such relevance is sought to be made, the petitioner is bound to have notice of the same and the petitioner shall have an opportunity to contest the same. I set aside the order passed and uphold the petitioner's claim. However, the State is at liberty to issue a notice if they want to reopen the issue again on the basis of the alleged existence of proof of the other person Jaimal Singh son of Mit Singh and his alleged entitlement for allotment of 2 standard acres and 5 1/2 units. Since a long time has elapsed, the liberty to the State shall be exercised within a period of 30 days from the receipt of copy of this order and serve a notice to the petitioner to involve him in the enquiry and afford to him also an opportunity to contest the claim and the decision could be taken by the competent authority in accordance with law.

4. The writ petition is allowed but with directions as referred to above.