
(1996) 05 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4478 of 1996

Mohinder Singh

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 16-05-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 114 PLR 559

Hon'ble Judges : M.L. Koul, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : D.C. Dhaula, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The petitioner prays for the issue of a writ in the nature of mandamus directing the respondents to allot House No. 1420/12, Phase XI, Mohali, to him and to execute a conveyance deed in respect of the said house in his favour. A few facts may be noticed.

2. The petitioner was living and working in Janak Puri, Sahibabad, District Gaziabad, in the State of Uttar Pradesh. He was running a shop for repair of batteries and other house-hold goods. During the anti-sikh riots in the year 1984, his shop was looted and consequently, he alongwith his family shifted to the Rakab Ganj Gurdwara Camp and then to Amb Sahib, Phase VIII, Mohali. He got himself registered with the office of the Deputy Commissioner, Ropar on 5th November, 1985. He was issued a Red Card and allotted House No. 1449/12, Phase XI, Mohali. On arrival of the Central Reserve Police Force, he was allotted House No. 1420/12, Phase XI, Mohali. With the change in political situation, the officers of the Punjab Government started harassing the migrants. In July 1987, the petitioner as also various other migrants were evicted from the house in their occupation. However, with the intervention of the Hon'ble Governor, the petitioner as also the other persons were put in possession of their respective houses on 1st August, 1987.

3. On 11th December, 1985, a sub committee of the Council of Ministers took a decision that "all Sikh migrants who have migrated to Punjab during the period of 1st November, 1984 to 12th December, 1985 shall get themselves registered with the Deputy Commissioner of the District in which they are residing before 18th January, 1986. The head of each sikh migrant family shall apply for registration to the Deputy Commissioner.... On receipt of application accompanied by the affidavit, the Deputy Commissioner shall register each sikh migrant family, and assign to each family a registration number. Thereafter, the Deputy Commissioner shall issue to each sikh migrant family settled in his district an identity card. On the production of this identity card, the sikh migrant family shall become eligible for various facilities and concessions announced by the Government of Punjab." It was further decided that the "other sikh migrant families may be allowed to purchase LIG houses at the fixed price. Two years moratorium period shall be allowed before the recovery of instalments. The period of recovery shall be 25 years and the interest rate shall be 4%." It was also directed that unallotted LIG houses of the Housing Board may be allotted to Sikh migrant families. Certain other decisions including provision, for employment were also made. Besides this, the Department of Relief and, Resettlement had issued instructions to the Housing Commissioner, Punjab regarding allotment of LIG/MIG houses under unauthorised occupation of migrants.

4. In pursuance to these instructions, copies of which have been appended as Annexures P.1 and P.5 with the writ petition, the petitioner filed an application before the Secretary, Relief and Resettlement, Punjab for allotment of House No. 1420/12, Phase XI, Mohali in his favour. However, now the respondents have started taking steps to dispossess the migrants. In this situation, the petitioner has approached this Court through the present writ petition. He alleges that the action of the respondents in trying to dispossess him from the house in his possession is wholly illegal and arbitrary. The petitioner prays for the issue of a writ directing the respondents to transfer the house in his favour and to execute a conveyance deed in that behalf.

5. This writ petition had come up before us on 8th April, 1996 "when we had asked the counsel for the petitioner "to produce evidence indicating that he (the petitioner) was actually residing in Janak Puri, Sahibabad, Gaziabad (U.P.) and that he had suffered loss of property etc." The case was adjourned to 15th April, 1996. No evidence was produced. The counsel had asked for further adjournment. It was granted. The counsel then filed an application alongwith which he produced a certificate dated 19th September, 1985 issued by the Secretary, Gurdwara Committee Amb Sahib Lambian in which it was stated that the petitioner had "come from Delhi from riot affected families. He has 5 members. Please ration card for him". Besides this, no other evidence has been produced by the learned counsel. In this situation, it is clear that there is nothing on record to show that the petitioner had been "actually residing and working in Sahibabad, District Gaziabad. There is no evidence to show that his shop had

been looted. In spite of being asked, counsel for the petitioner was not in a position to say that any ration card had been issued to him in Sahibabad. No FIR is shown to have been lodged with the police regarding loss of property. No evidence indicating that any child was studying in any school or that the petitioner had been actually working in Sahibabad has been produced. In this situation, we find no basis for the claim that the petitioner is a bona fide Sikh Migrant from Uttar Pradesh.

6. Another fact which deserves mention is that in the list of dates filed by the petitioner, it has been stated that he had come "to Mohali from Janak Puri Delhi". This document is signed by the counsel for the petitioner. In the writ petition, it has been stated that he had migrated from Sahibabad. These two statements are self-contradictory.

7. It is true that those who had been up-rooted from their houses were given certain concessions by the State Government. In the very nature of things, their condition warranted a preferential treatment. However, it is equally important that only the deserving persons get the relief. The first precondition is that the person should be a bonafide Sikh Migrant. In the present case, the petitioner has not been able to satisfy this basic test. Consequently, he is not entitled to the benefits claimed by him.

8. In view of the above, we find no ground to interfere. Accordingly, the writ petition is dismissed. In the circumstances, there will be no order as to costs.