

(1996) 08 P&H CK 0209

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10223 of 1994

Partap Singh, Ex. Hav. Clk.

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 02-08-1996

Acts Referred:

Citation : (1997) 1 CurLJ 489 : (1996) 3 LJR 568 : (1996) PLJ 550 : (1996) 3 RCR(Civil) 606

Hon'ble Judges : Ashok Bhan, J and N.K.Agrawal, J

Advocate : Mr. S.S. Saron, Addl. A.G. Punjab., Mr. H.S. Kamboj, Advocate, Mr. D.S. Bali, Senior Advocate, Advocates for appearing Parties

Judgement

Ashok Bhan, J.—This order shall dispose of three Writ Petition Nos. 10223, 10224 and 14090 of 1994, as common question of law and fact is involved in all these cases. Facts are taken from CWP 10223 of 1994.

2. Erstwhile State of Pepsu acquired 1180 acres of agricultural waste land in village Mohabhipur and Randhirpur tehsil Sultanpur Lodhi Distt. Kapurthala under the Pepsu Tenancy (Agricultural Land) Act, 1953 for settlement of Ex servicemen under the Land Colonisation Scheme. According to the Scheme of resettlement framed by the Govt., 1000 acres of land were meant to be allotted to 100 Exservicemen i.e. ten acres of land to each. 180 acres of land was for other miscellaneous purposes including Abadis, farm and roads etc. Only 62 eligible Exservicemen were available for settlement by the year 1961 and they were accordingly allotted ten acres each. In the year 1966, on the representation of some of the settlers the Deputy Commissioner allotted additional land measuring five acres to some of the allottees on purely temporary basis for the development of the land on the recommendation of the District Development and Panchayat Officer on the ground that ten acres of land already allotted was not sufficient for cultivation. The additional land of five acres was given subject to the approval by the Government. However, the enhanced allotment of five acres of land was rejected by the Govt. vide Memo No. 3739ARIV72/695 dated

16.1.1973. 38 families who were allotted additional land of five acres were asked to vacate the land in view of the Govt. decision dated 16.1.1973. It was felt that allotment of ten acres of land each to the Exservicemen was sufficient and may be allowed as such and that the remaining land which was proposed to be allotted to the existing settlers at five acres per settler may instead be allotted to 38 more Ex servicemen.

3. After receipt of these orders, efforts were made to get back the additional land of five acres given to the settlers. Some of them vacated this extra land but others refused to vacate the same. Subsequently in the year 1975, 21 more eligible Exservicemen were allotted ten acres of land per family. Thus the total number of settlers became 83 and only 17 Exservicemen were to be settled. Some of the settlers who were in possession of extra five acres of land filed CWP 2833 of 1975 in this Court which was afterwards allowed to be withdrawn on the assurance given by the State Govt. that the petitioners would not be dispossessed from the suit land except in accordance with law. The Collector vide order dated 19.4.1982 directed the ejectment of Exservicemen from the additional land given to them. This order was again challenged by filing a writ petition in this Court but the same was dismissed in limine. Aggrieved parties filed an appeal in the Supreme Court of India which was disposed of on 25.2.1993 by passing the following order :

“The appellants are in possession of the additional 5 acres of land for over two decades. The learned counsel for the State of Punjab has, however, argued that according to the Scheme, 100 families of exservicemen were to be settled on the acquired land. 62 families were initially settled on the land and subsequently 21 more were settled. According to him, there are still 17 Exservicemen who are to be settled but no land is available to accommodate them. We have given our thoughtful consideration to the arguments of the learned counsel on both sides. We are of the view that the interest of justice would be met if we permit the appellants to retain two acres of land each out of the additional 5 acres and surrender the remaining 3 acres each to Government so that the land available be utilized for settling the remaining 17 families of the Exservicemen. Learned counsel for the parties are not averse to this arrangement. We, therefore, direct that out of the additional 5 acres of land in possession of the appellants, they be permitted to retain two acres and to surrender the remaining 3 acres to the respondent Deputy Commissioner, Kapurthala as on or before June 30, 1993. The net result is that the appellants should be entitled to retain 12 acres of land each under the Scheme.

The appeal is allowed to the above extent. No costs.”

4. A perusal of this order would show that Supreme Court of India directed that 21 allottees retain two acres of additional land and surrender three acres of land to the State Govt. on or before 30.6.1993 so that other 17 families of Exservicemen could be settled. A Selection Committee was framed in the year 1982 to select Exservicemen to whom the land could be allotted. Allotment of

land to 17 Exservicemen who had been selected by the Selection Committee could not be made in the year 1982 because of the pendency of the appeal in the Supreme Court of India.

5. After the decision of the Supreme Court by which 21 allottees were allowed to retain additional two acres of land, the remaining allottees who were in possession of ten acres of land only filed CWP Nos. 7126, 7127 and 7660 of 1993 with a prayer that they may also be allotted two acres of more land in view of the decision of the Supreme Court of India dated 25.2.1993. These petitions were disposed of by this Court directing State Govt. to consider the representations filed by the petitioners and decide the same in accordance with law. Vide order Annexure P.4, the representations have been disposed of. This is the detailed order giving reasons for rejecting the representations filed by the petitioners. We find ourselves in agreement with the finding recorded in the said order. Order of the Supreme Court of India is very clear that only 21 allottees who were before the Apex Court were allowed to retain two acres of land and the land surrendered by them (that is three acres of land) was to be allotted to the Exservicemen's families selected by the Selection Committee on 16.12.1982 who had not been allotted any land. The said land could not be distributed amongst the petitioners. Rights of the petitioners are not better than those of 17 Exservicemen who had not been allotted any land. Petitioners have been allotted land as per the scheme and they cannot claim additional two acres of land on the basis of the order passed by Supreme Court of India resulting in depriving the 17 families for whose benefit the Supreme Court had directed the allottees of additional land to surrender three acres of land. Supreme Court had passed an agreed order and cannot be termed as modifying the original scheme of allotment enhancing the area for allotment from 10 to 12 acres.

For the reasons stated above, we find no merit in this petition and dismiss the same with no order as to costs.