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**(2005) 08 P&H CK 0071**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 10915 of 2002

Rup Lal Mehta and Another

APPELLANT

Vs

Chief Settlement Commissioner, Rehabilitation Department  
and Others

RESPONDENT

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**Date of Decision :** 17-08-2005

**Acts Referred:**

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 24

**Citation :** (2006) 142 PLR 346 : (2005) 4 RCR(Civil) 318

**Hon'ble Judges :** Jasbir Singh, J

**Bench :** Single Bench

**Advocate :** Som Nath Saini, for the Appellant; Mahavir Sandhu, D.A.G., for the Respondent

**Final Decision :** Allowed

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## Judgement

Jasbir Singh, J.—By filing this writ petition, petitioners have prayed for issuance of visit of mandamus directing the respondents to provide them alternative allotment of sub-urban land in lieu of the land which was initially allotted to them, however, was wrongly disposed of by the Rehabilitation Department.

2. Labha Mal, predecessor-in-interest of the petitioners, was a displaced person, who had abandoned agricultural land falling in area now in Pakistan. As per his entitlement he was allotted 12 standard acres 11-1/2 units of land on 16.7.1953 in Patti Taraf Insar Panipat. Subsequent thereto, on 24.1.1957, 5 standard acres 2 units of area, out of the area, referred to above, was cancelled and proprietary rights were conferred upon him with respect to the remaining area, to the extent of 7 standard acres 9-1/2 units.

3. It is an admitted fact, between the parties that khasra No. 5706/2333 (2 bighas 5 biswas) and 5707/2334 (0 bigha 4 biswas) was part of the land, proprietary rights of which were conferred upon Labha Mal. In the year 1974, Rehabilitation Department disposed of land falling in two khasra Nos., referred to

above, measuring 2 bighas in a very unauthorised manner though the said land was in the ownership of the petitioners. After the death of Labha Mal, petitioner came to know about the said fact, then they filed revision petition u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (in short "the Act"), for alternative allotment of land to them in lieu of area, which was wrongly disposed of by the respondents. Their revision petition was accepted vide order dated 20.5.1999 by the competent authority and it was ordered that necessary action be taken for providing alternative land to the petitioners. When those directions were not complied with, the petitioners filed C.W.P. No. 6479 of 2000 and on 23.5.2000, respondents were directed to allot land to the petitioners as per their entitlement within six months from the date of order passed. Vide letter dated 2.3.2001, Managing Officer asked Tehsildar Sales to take necessary action for allotment of land to the petitioners. Thereafter correspondence continued inter se between officers of the department but nothing was done. Petitioners even sent a representation to Chief Settlement Commissioner, Haryana on 14.2.2002 for allotment of land as ordered by the competent authority and also by this Court. When no action was initiated, they even sent a reminder on 6.5.2002. When all their efforts failed to elicit any response, present writ petition was filed by the petitioners in the month of July, 2002.

4. In reply filed, it has been stated that as per orders passed, land to the tune of 4 kanals 8 marlas already stood allotted to the petitioners in village Urlana Khurd, Tehsil Matloda, District Panipat. It has further been stated that the land falling in khasra No. 3055/2 and adjoining thereof, being within sub-urban limits of Panipat it was not possible to allot said land to the petitioners. It has further been stated that one Shri Dalip Singh son of Tara Singh had moved an application to allot that land to him, on the basis of unauthorised occupation, as per policy of the Government and his request is under consideration. By stating above mentioned facts, it was prayed that writ petitions be dismissed.

5. Heard counsel for the parties.

After hearing counsel for the parties, this Court is of the opinion that the present writ petition deserves to be allowed.

6. Father of the petitioners had to leave his place of residence due to unfortunate circumstances in the year 1947. He was compelled to come to this part of the country. As per provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, he was entitled to allotment of land in lieu of agricultural land left by him in Pakistan. After more than half a century, his children are still in litigation and begging for their right from the government, who is supposed to be protector of the rights of the people. This Court feels that in the present case, authorities are acting in a very arbitrary manner. It is an admitted fact that regarding land bearing khasra Nos. 5707/2333 and 5707/2334, total measuring 2 bighas and 9 biswas, proprietary rights were conferred upon Labha Mal, father of the petitioners. Despite Labha Mal, being owner of the said property, alongwith area withdrawn from him above said khasra Nos. were

also disposed of by the departmental authorities. Had that land not been wrongly disposed of, it would have remained with the petitioners. Merely because, during intervening period when the petitioners were litigating before various authorities, nature of the land has changed and it has become part of sub-urban land, they cannot be denied their entitlement to get land near to the vicinity of the land, which was wrongly disposed of by the departmental enquiry,

7. Vide order, Annexure P/1, the Chief Settlement Commissioner observed that since land has already been disposed of to a third party, it was not possible to return that very piece of land to the petitioners. However, it was held that the petitioners were entitled to allotment of alternative area. Vide that order, authorities were directed to allot land to the petitioners as per their entitlement. On 23.5.2000, while disposing of C.W.P. No. 6479 of 2000, this Court also ordered that the land be allotted to the petitioners within six months from the date of receipt of a certified copy of the order passed. Inaction on the part of the authorities compelled the petitioners to file the present writ petition. Immediately before filing of this writ petition 4 kanals land was allotted to the petitioner arbitrarily, in a far-off village by stating that as the area out of which earlier land was allotted to the petitioners has become a part of sub-urban land so it was not possible for the department to allot land to the petitioners in that area. This Court is of the opinion that the attitude adopted is totally unreasonable. It is very strange and as is apparent from the written statement, respondents have framed a policy dated 1.11.2001 to allot land to unauthorised occupants even in sub-urban area (this fact finds mention in para 16 of the written statement), whereas the petitioners, whose sub-urban land was wrongly disposed of by the authorities, are being denied their due to them. A violator of law is being preferred to a person who is running from pillar to post for the last more than 50 years to get property allotted to them in lieu of property left in Pakistan.

8. It is not in dispute that the land bearing Khasra Nos 5706/2333 (2 bighas 5 biswas) and 5707/2334 (0 bigha 4 biswas), after allotment, was in the ownership of the petitioners. Had the same been not disposed of wrongly by the government, by now with the passage of time, it would have remained with the petitioners, as sub-urban land. Once, it is an admitted fact that the petitioners were owners of the property, in dispute, which was wrongly sold away by the authorities, this Court is of the opinion that they are entitled to get land in that very area out of the sub-urban land.

9. In para No. 16 of their writ petition, petitioners have alleged that land bearing khasra Nos. 379, 382 and 3055/2 in Patti Insar Panipat is still available for allotment. In corresponding para of the written statement, it has only given so far khasra Nos. 379 and 382 are concerned.

10. Accordingly, it is ordered that the petitioners be allotted land out of khasra Nos., referred to above. If that land is not available for allotment, it is directed that they be allotted any other land in Patti Insar or within sub-urban area of Panipat City. Needful be done within two months from the date of receipt of a

copy of this Order.

Writ petition stands allowed with above mentioned directions. No order as to costs.