
(1987) 07 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Miscellaneous Reh. No. 2 of 1986-87

Rur Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 28-07-1987

Acts Referred:

Citation : (1988) PLJ 580 : (1989) 1 RRR 99

Hon'ble Judges : Tejendra Kahanna, F.C.

**Advocate : A.K. Chopra, Advocate, S.M. Sharma, Advocate for Y.P. Gandhi.,
Advocates for appearing Parties**

Judgement

Tejendra Kahanna, F.C.

1. This petition under Section 33 of the Displaced Person (compensation and Rehabilitation) Act, 1954 is directed against the order dated the 14th July, 1986 of the Chief Settlement Commissioner Punjab, Chandigarh, whereby he accepted the suo motu reference made by the Section Officer cum Managing Officer, Rehabilitation Department, and set aside the proprietary right in respect of 11 standard acres 151/4 units, conferred on Rur Singh, predecessor in interest of Jit Singh, etc., petitioners, in village Sudhar tehsil Zira district Ferozepur.

2. The facts of the case, in brief, are that land measuring 193 standard acres was allotted to Rur Singh, predecessor in interest of Jit Singh etc., petitioners in lieu of the land abandoned by him in village Mureka, tehsil and district Lahore (Pakistan). Anup Singh, respondent No. 3 filed a complaint before the Rehabilitation Authorities to the effect that Rur Singh sold his entire land before the partition of the country and was not entitled to any allotment. Mutation No. 265 regarding the above sale had also been entered in favour of the vendees. After examining the documents produced by respondent No. 3, the Section Officer cum Managing Officer, Rehabilitation Department made a reference to the Chief Settlement Commissioner, Punjab, Chandigarh on the 27th September, 1984 for setting aside the proprietary rights in respect of 11 standard acres 151/4 units situated in village Sudhar, tehsil Zira district Ferozepur conferred on

Rur Singh. The said reference was accepted by the Chief Settlement Commissioner vide his order dated the 14th July, 1986 and, in pursuance thereof, land measuring 11151/4 standard acres was retrieved from the petitioners and allotted to respondent No. 3. Before possession of the land could be delivered to respondents No. 3, the petitioners challenged the impugned order before me and obtained an ex parte stay order on the 11th November, 1986 by preferring the instant petition.

3. I have heard the learned counsel for the parties. It was pleaded on behalf the petitioners that their predecessor had not sold his land to the predecessor of respondent No. 3 before partition of the country. The certified copy of mutation No. 265, alleged to have been sanctioned on the 18th April, 1946 should not have been relied upon by the Rehabilitation Authorities, as it had been brought from Pakistan after the lapse of about 40 years. Moreover, some litigation with regard to the land in dispute had been going on in the Punjab and Haryana High Court and unless the same was finally decided, there was no valid ground to interfere with the petitioners' allotment. Since the interest of the compensation pool was not involved, the suo motu reference made by the Managing Officer to the Chief Settlement Commissioner was uncalled for. Reliance in this behalf was placed on the judgment of the Financial Commissioner (Taxation) reported in 1975 PLJ 75. It was urged that the impugned order of the Chief Settlement Commissioner may be set aside.

4. The counsel for respondent No. 3 moved an application dated the 23rd April, 1987 for vacation of the ex parte stay and produce photostat copies of mutation No. 265 as also mutalba arazi preferred by Sohan Singh on the 18th March, 1948. It was contended that the mutation having been brought from Pakistan through the Indian High Commission, Islamabad, was admissible in evidence. The fact that the land in dispute had been sold by the petitioner's father to Sohan Singh before partition of the country was also evident from the mutalba arazi filed in 1948 by the latter. Further, the litigation which was stated to be pending in the High Court pertained to some other piece of land and not to the disputed land. As respondent No. 3 had been deprived of his due allotment for the last more than 40 years, there was hardly any justification to grant any stay order in favour of the petitioner.

5. I have considered the matter carefully. From the documents produced by respondent No. 3, it is obvious that petitioner's father had sold the land in dispute to Sohan Singh before the partition of the country. The petitioners who denied having sold the land in Pakistan, were asked to file an affidavit to this effect. The affidavit filed by him on the 14th July, 1987 has been brought on record. I am, however, convinced that there is no valid ground to doubt the genuineness of the documents brought by respondent No. 3 from Pakistan. Moreover, the concluding para of the judgment of the High Court dated the 28th May, 1986 clearly provides that the right of respondent No. 3 to secure allotment in lieu of the land purchased by him before the partition of the country would not

be affected as a result of dismissal of his Regular Second Appeal. The judgment reported in 1975 PLJ 75 has no application in the instant case as the Rehabilitation Authorities are competent to retrieve the undeserved allotment and allot the land to its rightful claimant.

6. For the reasons given above, this petition, which is devoid of any force, is dismissed in limine. The Deputy Secretary Rehabilitation should examine the desirability of launching criminal proceedings against Jit Singh petitioner for his having filed a false affidavit.