

(2012) 10 P&H CK 0073

In the Punjab And Haryana At Chandigarh

Case No : R.A. No. 449 of 2012 in C.W.P. No. 6657 of 2011

Smt. Angoori Devi

APPELLANT

Vs

Union Territory and Other

RESPONDENT

Date of Decision : 12-10-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, 114

Citation : (2013) 1 RCR(Civil) 117

Hon'ble Judges : Rajiv Narain Raina, J; Hemant Gupta, J

Bench : Division Bench

Advocate : J.R. Syal, for the Appellant;

Final Decision : Dismissed

Judgement

Rajiv Narain Raina, J.—This is an application for review of the order dated 19.07.2012. The claim in the petition was for separate allotment of a booth earmarked under the scheme for rehabilitation of hawkers. The claim was made by Angoori Devi w/o late Hari Ram who had Hawker's Licence but died in 1996. The petitioner-review applicant (for short "the applicant"), a 70 year old widow claimed that the UT Administration ought not to have clubbed her case with the case of her son Rajeev Kumar and made an allotment of a single booth in their favour. The mother and son ought to have been allotted two booths instead of one. The request for separate allotment was rejected by the Estate Officer principally on the ground that since the widow was in advanced age and resided with her son, it would not be possible for her to run business independently. This Court held that the 1991 scheme was for rehabilitation and could not be used as a tool for unjust enrichment of a close family unit such as mother and son. The purpose of rehabilitation was achieved by allotment to both mother and son of a single booth. In this review application, it is reasserted that the applicant and her son were doing independent business in two separate but adjoining sites. After the date of the dismissal of the writ petition, it is pleaded that on 31.08.2012 the applicant sought information under the Right to Information Act with respect to

allotment of booths to mother and son citing several cases of this kind in the application and therefore, the Estate Officer could not discriminate and act in an arbitrary manner.

2. The application submitted by the applicant addressed to the CPIO, Office of the Estate Officer (Rehri Branch), U.T. Chandigarh asking whether the averments of cases of allotment of booths to mother and son separately made in the review application are true or not is not in our considered view ground for review of the order. The application (R-1) has had no response from the UT Administration yet nor has it been pleaded as a fact that the request application has been duly communicated and served on the CPIO. It has also not been pleaded either in the writ petition or in the review application that the applicant is a destitute who has been abandoned by her son and is left to fend for herself. There may be a case where a mother and son could deserve allotment separately depending on the facts and circumstances of the case. However, as a general principle, we are unable to hold that all mothers and sons have a right to separate allotment. Still further, if the Estate Officer had committed a wrong in one case, the same cannot be perpetuated by an order of the Court. We have already expressed our opinion that the scheme is one of rehabilitation, and we may now add, not one of windfall gain. In the garb of this review application, the applicant cannot seek change of opinion and the present application does not deserve to be entertained as it does not meet the parameters of review spelt out in Section 114 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908.

The review application is, consequently, dismissed.