

Nirmala Devi vs. B.K. Aggarwal & Ors.

COPC No. 10 of 2019

03.01.2024 Present: Ms. Reeta Goswami, Senior Advocate with Ms. Komal Chaudhary, Advocate, for the petitioners.

Mr. Rajan Kahol Additional Advocate General for respondent No.1.

Mr. Y.W. Chauhan, Advocate, for respondents No. 2 to 4.

In order to appreciate the broad spectrum, it would be in fitness of things to have a recap of the judgment passed by the Division Bench of this Court, in CWP No.1608 of 2016, titled as Nirmala Devi vs. State of Himachal Pradesh, decided on 29.06.2017 (*Annexure C-1*) which reads as under:-

“It is not disputed before us that the petitioner is otherwise entitled for allotment of land (murabba). The only issue is as to whether petitioner can choose a particular piece of land of his choice. In this regard, our attention is invited to the communication dated 4th May, 2016, so issued by the District Collector, Sriganganagar, giving an option to the petitioner to point out any alternate land which can be allotted to her. Pursuant thereto, it is contended on behalf of the petitioner that such option already stands exercised and the land identified,

particulars whereof already supplied to the authorities concerned.

2. In this view of the matter, we direct District Collector, Sriganaganagar, to take all appropriate actions of ensuring that possession of the land, allotted to the petitioner, in terms of the choice so expressed by him, handed over, if free from all encumbrances.”

2. The learned Senior Counsel Ms. Reeta Goswami, alleges willful, intentional and deliberate non-compliance of the judgment passed in CWP No.1608 of 2016, dated 29.06.2017 (Annexure C-1) and the orders passed in COPC No.254 of 2017 dated 4.10.2018 (Annexure C-2), filed by the petitioner and similar allottees, who were not allotted lands-murabbas or in whose case, the murabbas were uncultivable or in whose cases, the allotted murabbas were encroached upon by others denying, the actual possession-utilization by allottees, wherein the Division Bench of this Court, on assurance of the respondents have held as under:-

“4. In compliance to the same, an affidavit has been filed by the Chief Secretary to the Government of Himachal Pradesh dated 03.10.2018. Alongwith the said affidavit, proceedings of meeting of Chief Secretaries of the States of Himachal Pradesh and Rajasthan held on 03.07.2018, are also appended as

Annexure-V. A perusal of the said minutes demonstrates that inter alia it has been agreed upon by the authorities that cases pertaining to allotment of the land to Pong Dam oustees in Sriganganagar and Bikaner districts, wherein allotment of land has yet not been done, as also other matters relating to the said issue, shall be resolved and land will be allotted within the next three months.

5. In view of the contents of the said minutes of proceedings, all these matters are closed with the direction that both the governments, i.e. **Government of Himachal Pradesh and Government of Rajasthan, shall be bound by the contents of the minutes of proceedings dated 03.07.2018 and the grievances of the petitioners shall be resolved within the stipulated period** as is mentioned in the said minutes.”

3. Upon issuance of notice on 20.03.2019, the Respondent No.1-Chief Secretary, Himachal Pradesh, has filed a reply-affidavit dated 12.06.2019, which reads as under:-

“The facts stated above would make it amply clear that the replying respondent has facilitated the case of the petitioner by forwarding the copy of judgment to the all concerned and *recommended his case to the Govt. of Rajasthan for further allotment of alternate Murraba. Further action in the matter is required to be taken at the level of Government of Rajasthan, being Allotting Authority.*”

4. Likewise, the respondent No.2-Chief Secretary, Rajasthan has filed a reply-affidavit dated 7.6.2019 reads as under:-

“The contents of this para are not disputed being matter of record. However the case of the petitioner was received in the Office of the Collector Sriganganagar who forwarded the case to the SDM Garsana for further processing and verification, **that as the petitioner has given his option for allotment of Murabba No.148/54, Chak No.4 SKM-B Patwar Mandal 6 SKM-A Tehsil Garsana Sriganganagar.** That on verification of the above Khasra No it has been found that **this Murabba is disputed and proceedings in the Revenue Court are undergoing and as such the revenue report** is attached as Annexure CR/2-A for the kind perusal of this Hon’ble Court **hence the above mentioned Murabba cannot be allotted.”**

5. Keeping in view the peculiar situation, in terms of the follow up action, as in reply-affidavit of Chief Secretary, State of Rajasthan, referred to above, Ms. Reeta Goswami, learned Senior Counsel for the petitioners, submits that the *revenue proceedings for removal of encroachment* was initiated and the eviction has been ordered and though the land has been got vacated from the encroacher and the Government has

taken possession of these land(s). Ms. Reeta Goswami, Learned Senior Counsel further submits that the petitioner has submitted the option for allotment of land in Murabba No.148/54, Chak-4, SKM-B, Patwar Mandal 6-SKM-A, Tehsil Garsana Sriganganagar (Rajasthan).

6. Ms. Reeta Goswami, learned Senior Counsel submits that the respondents have not complied with the judgments/orders, *despite the fact that the alleged encroachers has been evicted and Government has taken over the possession of these lands, but the respondents are sleeping over the matter, with the intention to bring disrespect to the judgment/order(s) passed from willfully, intentionally, disobeying and disregarding the implementation of the judgment passed; and assurance given thereto before the Division Bench of this Court; when the judgment has attained finality. This willful and intentional disregard of the judgment cannot be permitted in any manner, which has resulted in depriving the petitioner of the right to take possession and to occupy and utilize the allotted Murraba land, as above.*

7. However, without commenting further and as prayed by Mr. Y.W. Chauhan, Advocate, this Court reluctantly adjourns the matter, so as to enable the

respondents to ensure compliance of judgment within six weeks positively. Needless to clarify that in case facts in Para 5 and 6 are correct then, in order to ensure compliance, the respondents shall depute a responsible officer/[not less than the rank of Naib Tehsildar] who shall associate the petitioner till the actual possession is handed over to the petitioner in terms of the judgment and order, referred to above by taking it to the logical end.

8. It is clarified that in case judgment is not complied with, within the above period, this Court shall be constrained to summon the Chief Secretary, State of Rajasthan, hereinafter.

9. Registry of this Court is directed to inform the Chief Secretary, State of Rajasthan of this order, by all permissible mode, for compliance.

List on **5th March, 2024.**

(Ranjan Sharma)
Judge

3rd January, 2024
(himani)