

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

R.P.(C)No. 1292 OF 2010 in C.A. No.973 of 2007

MANOHAR LAL (D) BY LRS. .. Appellant(s)

Versus

UGRASEN(D)BY LRS. & ORS. .. Respondent(s)

DATE : 24/08/2011 This matter was called on for
pronouncement of judgment today.

For Appellant(s) Mr. Arvind Kumar Gupta,Adv.

For Respondent(s) Ms. Reena Singh,Adv.
Mr.Devesh Kumar,Adv.

Dr.(Mrs.) Vipin Gupta,Adv.

Hon'ble Dr. Justice B.S. Chauhan pronounced the
judgment of the Bench comprising His Lordship and
Hon'ble Mr. Justice Swatanter Kumar.

The review petition is dismissed in terms of the
signed reportable judgment.

[Madhu Bala]
Sr.PA

[Savita Sainani]
Court Master

[Signed reportable judgment is placed on the file]

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

REVIEW PETITION (CIVIL) NO.1292 OF 2010

IN

CIVIL APPEAL NO. 973 OF 2007

Manohar Lal (D) by Lrs. Petitioner

Versus

Ugrasen (D) by Lrs. & Ors. Respondents

J U D G M E N T

Dr. B.S. CHAUHAN, J.

1. The review petition has been filed against the judgment and order dated 3.6.2010 passed by this Court in Civil Appeal No. 973 of 2007. This Court has disposed of the said civil appeal by a detailed judgment in Manohar Lal (Dead) by Lrs. v. Ugrasen (Dead) by Lrs. & Ors., AIR 2010 SC 2210.

2. While deciding the appeal this Court proceeded on the following facts:

A. Land belonging to the predecessor-in-interest of the applicants, (hereinafter called 'Shri Manohar Lal'), alongwith a

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huge area of land belonging to a very large number of persons, stood notified under Section 4 of Land Acquisition Act, 1894 (hereinafter called as 'Act ') on 13.8.1962.

Section 6 of the Act in respect of the same were made on 24.5.1965 and 13.1.1969 alongwith Notification under Section 17(1) of the Act invoking the urgency clause. Possession of the

lands was taken in pursuance thereof and award was made under Section 11 of the Act on 11.5.1970, so far as the land of Shri Manohar Lal was concerned.

B. The Government of Uttar Pradesh had framed the land policy dated 30/31.7.1963 to the effect that person aggrieved shall be allotted the developed land in residential area to the extent of 40% of the area of the land acquired provided the applicant fulfils the other conditions, namely, apply in writing within a period of one month from the date of acquisition; deposit the amount of compensation so received, if any, and other development charges within a period of one month after the allotment.

C. Shri Manohar Lal claimed to have filed an application on 22.6.1969. Land was allotted to him in year 1975, which was

not accepted by him.

The allottee did not comply with any of

the terms of allotment rather asked to cancel the allotment and

allot him the land of his choice at another place.

Shri Manohar

Lal was allotted the land vide order dated 27.12.1979 as per the

direction of the Hon'ble Chief Minister in the commercial area.

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2. This Court quashed the said allotment dated 27.12.1979 on grounds, inter-alia, that Shri Manohar Lal did not deposit the amount required under the Scheme within the stipulated period, when he was allotted the land by Ghaziabad Development Authority (hereinafter called as 'Authority'), rather he had been asking another land of his choice, and therefore, the earlier allotment was cancelled. He kept quite for years together and, subsequently, approached the Hon'ble Chief Minister of the State of Uttar Pradesh who was not a competent Authority under the Act, therefore, the order of allotment made by him was not enforceable. The land allotted to Shri Manohar Lal was in commercial area and not meant for residential use, which was contrary to the terms of land Policy.

3. The review application has been filed primarily on the ground that certain affidavits were filed by the Authority during the hearing of the appeal and the applicants did not have sufficient opportunity to rebut the same or under the prevailing circumstances, could not file the reply in rebuttal and some relevant documents were also not made part of the record. In view thereof, this Court vide orders dated 26.8.2010 and 29.10.2010, directed the parties to produce the allotment letter in favour of Shri Manohar Lal issued in year 1975 and the letter

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of non-acceptance by him, and further to furnish information as how many persons whose land were acquired in pursuance of the same Notification under Section 4 of the Act were granted the

benefit of the land Scheme.

4. Both the parties submitted their affidavits in response to the aforesaid orders. The applicants have submitted that they were not in possession of the letter of allotment made by the Authority in favour of Shri Manohar Lal in year 1975 or his letter of refusal of acceptance of the same. However, they have submitted that the allotment of the land was made vide letter dated 22.12.1975 in favour of Shri Manohar Lal which was very far away from his land, which had been acquired. Thus, he declined to accept the offer and, subsequently, he was not allotted the land. Thus, he approached the Hon'ble Chief Minister for justice.

5. On the other hand, the Authority produced orders to show that Shri Manohar Lal was allotted land vide letter dated 22.12.1975, however, he did not deposit any amount as required under the said allotment letter. Shri Manohar Lal vide letter dated 21.1.1976 refused to accept the said allotment rather asked for cancellation of the same. He approached the Hon'ble Chief Minister of Uttar Pradesh and got the letter of allotment of land directly in commercial area, which was not permissible

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under the Scheme. There is a letter dated 12.5.1978 on record to the effect that the change of land sought by Shri Manohar Lal vide application dated 3.5.1978 was not possible and, thus, he should deposit the development charges etc., within a period of 15 days, and in case of failure, it would be presumed that he was no more interested in allotment of land and the offer so made would stand cancelled.

6. The letter dated 22.12.1975 reveals that Shri Manohar Lal was allotted the land measuring 6568.29 sq.mtrs., and for that the estimated development cost was Rs.2,50,448.90 which was subjected to variation and he was asked to deposit 20 per cent

of the development charges amounting to Rs. 50089.78 through bank draft within a period of one month and deposit the remaining amount in eight equal instalments.

7. Letter dated 21.1.1976 sent by Shri Manohar Lal in response of the letter of allotment dated 22.12.1975 reveals that the land so offered was not acceptable to him as he wanted the land of his choice in plot nos. 1 to 44, L-Block, Sector 3, Nehru Nagar. Thus, he asked the Authority to cancel the allotment dated 22.12.1975 and allot him the aforesaid land of his choice. It appears that Shri Manohar Lal had been pursuing his demand of alternative land without ensuring compliance of the terms incorporated in the allotment letter dated 22.12.1975.

However, while considering his application for allotment of other land, the Authority vide letter dated 25.1.1978 made allotment of alternative land in Nehru Nagar (West) having equal area and vide said letter he was asked to complete the other formalities for execution of the agreement after depositing the due amount within a period of one month from the said date. However, the allotment made by the Authority vide letter dated 25.1.1978 was also not acceptable to him. Shri Manohar Lal made an application dated 3.5.1978 to allot him the land of his choice, which stood rejected by the Authority vide order dated 12.5.1978.

8. After expiry of more than a year, Shri Manohar Lal approached the State Government stating that his land had been acquired in year 1969 for residential use and he had not been allotted the land under the land Policy. Thus, justice be done to him. While considering his representation, the Secretary, Urban Development, vide letter dated 14.6.1979 asked the Authority as to why the land had not been made available to Shri Manohar Lal. After seeking clarification, Hon'ble the Chief Minister issued directions to the Authority to make the

allotment of land in plot nos. 1 to 44 as sought by Shri Manohar Lal, immediately. In pursuance thereof, letter dated 12.11.1979 was issued by the Deputy Secretary, State Government, Housing Section to the Authority to make the allotment of plot nos. 1 to

44, L- Block, Sector - 3, Nehru Nagar and, in pursuance thereof, the allotment was made to him.

9. The matter came under litigation when opposite party Shri Ugrasen raised certain objections in respect of land allotted to Shri Manohar Lal. In spite of the matter pending in the High Court, wherein the interim order directing the Authority not to allot the said land in favour of anybody had been passed, lease deed dated 28.3.1989 was executed by the Authority in favour of Shri Manohar Lal.

10. It is in this backdrop, we have to examine as to whether the judgment and order sought to be reviewed, requires reconsideration.

11. Though a large number of persons had been displaced but it appears that only 3-4 families had been allotted the land in pursuance of the land Policy including Shri Manohar Lal and his brothers and the admitted facts remained that in spite of the allotment of the land in his favour under the land Policy on 22.12.1975, Shri Manohar Lal did not deposit any amount, rather vide application dated 21.1.1976 asked for allotment of another land cancelling the said allotment. Fresh allotment was made vide letter dated 25.1.1978 which was also not acceptable to him and he did not deposit any amount or made any attempt to get the lease deed executed rather approached the Hon'ble Chief

Minister, who was not the competent Authority under the law for allotment of the land.

12. The land Policy did not provide the allotment of land of the choice of the tenure-holder. It was not permissible for any Authority to make the allotment in commercial area, as allotment could be made only in residential area. Shri Manohar Lal - applicant did not comply with the allotment letters dated 25.12.1975 or 25.1.1978 rather he had been making attempts to get the land of his choice in commercial area and, consequently, succeeded by getting a patently and latently illegal allotment by the blessings of the then Hon'ble Chief Minister who had no competence to make allotment of land under the law.

13. We do not find any force in the submission made by Shri Jayant Bhushan, learned counsel for applicants, that a person who does not get relief from the Statutory Authority, has a right to make representation before the Government; as in the instant case, Government of Uttar Pradesh was a revisional Authority which could entertain the revision against the order of appellate Authority. In an appropriate case, the Court may issue appropriate directions to redress the grievance of person aggrieved but even the court cannot direct a person to decide the representation unless the person so directed is a Competent Authority under the Statute, for the reason that the authority

may grant relief, which otherwise the authority has no competence to grant taking shelter under the order of the court. Even authority may grant undeserving relief in pursuance of order passed by the court though the case may be undeserving or time barred and under the bonafide impression that the Authority was bound to grant the relief. Authority may also grant the relief while deciding the representation on account of collusion/connivance between persons making the representation and the authority deciding the representation. (Vide:

A.P.S.R.T.C. & Ors. v. G. Srinivas Reddy & Ors., AIR 2006 SC 1465; and Employees State Insurance Corporation v. All India

ITDC Employees Union & Ors., (2006) 4 SCC 257).

14. The Hon'ble Chief Minister passed the allotment letter himself mentioning the plot numbers of the land, as it was the Authority himself which is impermissible in law. The Chief Minister could not take upon himself task of the authority. It tantamounts to transgression/ usurpation of competence. While deciding a representation/petition, an authority or court may issue direction to the person concerned to consider the grievance. However, it is not permissible to pass the order by the superior authority/court itself. (Vide: G. Veerappa Pillai v. Raman and Raman Ltd., AIR 1952 SC 192; Life Insurance Corporation of India v. Mrs. Asha Ramchandra Ambekar & Anr., AIR 1994 SC 2148; and H.P. Public Service Commission v. Mukesh Thakur & Anr., AIR 2010 SC 2620).

15. In view the above, we do not find any good ground to entertain the review application. It is, accordingly, dismissed.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(SWATANTER KUMAR)

New Delhi,
August 24, 2011