

S.B. CIVIL WRIT PETITION NO. 5873 / 2004

Date : 21.12.2004

HON'BLE MR. JUSTICE RAJESH BALIA

Mr. Rajendra Singh for the petitioner.

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The petitioner has challenged the notification issued by the respondent for allotment of surplus lands which has vested in the State in the ceiling proceedings from various persons firstly vide notification dated 22.11.2004.

So far as the present petitioner is concerned, she claims to be the transferee of certain lands from one Mahaveer Singh, in whose ceiling case certain lands have been declared surplus. A writ petition No.1917/2002 was filed challenging surrender of lands / acquiring of the said land as surplus land of said Mahaveer Singh.

When the notification dated 22.11.2004 was issued, the counsel for the petitioner gave a notice to the respondents pointing out that since the matter is pending consideration before this Court relating to the surplus ceiling land in village Sanodiya, the allotment of surplus land may not be made.

On receipt of this notice, in the first instance, the Allotment Committee decided not to allot the land. However, later on realising that there is no interim order against the allotment of surplus land, next date was fixed on 28.12.2004 for making allotment of land in surplus pool. Hence this second petition has been filed. The principal foundation of this petition is the same as in writ petition No.1917/2002. So far as the petitioner is concerned, her prayer is only confined to the land, which she claims to have acquired from Mahaveer Singh and which has been included in the holdings of Mahaveer Singh in his ceiling case, that land subject matter of transfer to her ought not to have been surrendered in the first instance before the unencumbered land, of Mahaveer Singh were surrendered. If after surrendering the unencumbered land still surplus land is required to be surrendered by him, then only encumbered land could have been acquired in ceiling proceedings of Mahaveer Singh.

Since the petitioner's land is subject matter of S.B. Civil Writ Petition No.1917/2002, it would not be inappropriate to entertain the second petition in furtherance of safeguarding the very same interest. If the petitioner desires to safeguard her interest through interim order by this Court, she can seek her remedy by making

appropriate application in the pending writ petition.

Moreover, from the notification Annex.1, it is apparent that it concerns the allotment of land in very large number of khasra numbers situated in different villages, and spread over in small parcels of land totalling 241 bighas and 17 biswas in village Sanodiya and 163 bighas and 10 bighas in village Davriya. The lands so notified are not the lands in their entirety which is subject matter of the writ petition NO.1917/2002.

In that view of the matter, without prejudice to the petitioner's right to claim any relief in the pending writ petition in respect of the land to which she stakes her claim, this petition is dismissed.

[RAJESH BALIA], J.

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