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MANOHAR LAL (D) BY LRS.

v.

UGRASEN (D) BY LRS. & ORS.

(Review Petition (Civil) No. 1292 of 2010)

IN

B

(Civil Appeal No. 973 of 2007)

AUGUST 24, 2011

**[DR. B.S. CHAUHAN AND SWATANTER KUMAR, JJ.]**

C

*Land Acquisition Act, 1894 – ss. 4 and 6 – Land Acquisition – Land policy by State Government that the person aggrieved to be allotted the developed land in residential area to the extent of 40% of the land acquired subject to fulfillment of certain conditions – Allotment of land in pursuance thereto*

D

*not accepted by land owner – Land owner filed an application seeking cancellation of allotment, and allotment of land of his choice at another place – Fresh allotment made also not acceptable to him nor did he deposit the amount required – Thereafter, land owner allotted the land as per the direction*

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*of the Chief Minister in the commercial area – Said allotment quashed by Supreme Court – Review petition – Held: There is no ground to entertain review petition - Land Policy did not provide the allotment of land of the choice of the tenure-holder – Allotment could be made only in residential area –*

F

*Applicant did not comply with the allotment letters rather approached the Chief Minister, who was not the competent Authority – Chief Minister passed the allotment letter himself mentioning the plot numbers of the land in the commercial area as if he was the Authority himself which is not permissible*

G

*in law – 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*

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*pass the order by the superior authority/court itself – Thus, A  
review petition is dismissed.*

The State Government framed a land policy to the effect that the person aggrieved shall be allotted the developed land in residential area to the extent of 40% of the area of the acquired land provided the applicant fulfils the conditions stipulated therein. The predecessor-in-interest of the appellants was allotted land in pursuance to the land policy but he did not deposit any amount. He filed an application seeking allotment of another land cancelling the said allotment. A fresh allotment was made but he did not accept the same and did not deposit any amount as required under the Scheme. He approached the Chief Minister for the allotment of the land and was allotted the land on the direction of the Chief Minister in the commercial area. This Court cancelled the allotment. Therefore, the appellants filed the instant Review Petition. B  
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Dismissing the Review Petition, the Court

HELD: 1.1 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. The 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 Chief Minister who had no competence to make allotment of land under the law. E  
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[Para 12] [642-D-E]

1.2 It cannot be said 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 H

A 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. [Para 13] [642-F-H; 643-A-B]

E *A.P.S.R.T.C. and Ors. v. G. Srinivas Reddy and Ors.* AIR 2006 SC 1465; 2006 (2) SCR 494; *Employees State Insurance Corporation v. All India ITDC Employees Union and Ors.* (2006) 4 SCC 257; 2006 (3) SCR 361 – relied on.

F 1.3 The Chief Minister passed the allotment letter himself mentioning the plot numbers of the land, as if he 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. [Para 14] [643-C-E]

H *G. Veerappa Pillai v. Raman and Raman Ltd.* AIR 1952 SC 192; 1952 SCR 583; *Life Insurance Corporation of India*

MANOHAR LAL (D) BY LRS. v. UGRASEN (D) BY 637  
LRS. & ORS.

*v. Mrs. Asha Ramchandra Ambekar and Anr. AIR 1994 SC 2148:1994 (2) SCR 163; H.P. Public Service Commission v. Mukesh Thakur and Anr. AIR 2010 SC 2620: 2010 (7) SCR 189 – relied on.* A

*Manohar Lal (Dead) by Lrs. v. Ugrasen (Dead) by Lrs. and Ors. AIR 2010 SC 2210: 2010 (7) SCR 346 – referred to.* B

**Case Law Reference:**

2010 (7) SCR 346	Referred to	Para 1	C
2006 (2) SCR 494	Relied on	Para 13	
2006 (3) SCR 361	Relied on	Para 13	
1952 SCR 583	Relied on	Para 14	D
1994 (2) SCR 163	Relied on	Para 14	
2010 (7) SCR 189	Relied on	Para 14	

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 973 of 2007. E

From the Judgment & Order dated 22.07.2003 of the High Court of Allahabad in CMWP No. 6644 of 1989.

Jayanth Bhushan, Shailendra Paul, Rahul Mangla, Arvind Kumar Gupta for the Appellants. F

Reena Singh, Devesh Kumar, Dr. Vipin Gupta for the Respondents.

The Judgment of the Court was delivered by G

**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 H

A *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:

B A. Land belonging to the predecessor-in-interest of the applicants, (hereinafter called 'Shri Manohar Lal'), alongwith a 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. Declarations under C 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 D Shri Manohar Lal was concerned.

E 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. F

G 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.

H 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 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.

A 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  
B 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 under the Scheme. There is a letter dated  
12.5.1978 on record to the effect that the change of land sought  
C 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.

D 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  
E through bank draft within a period of one month and deposit  
the remaining amount in eight equal instalments.

F 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  
G 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  
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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

A 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  
B 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  
C 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  
D 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  
E 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  
F 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  
G 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  
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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).

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

N.J.

Petition dismissed.