Before M.M. Kumar & Rajiv Narain Raina, JJ.

SUBHASH CHANDER,—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

CWP No. 18085 of 2009

13th December, 2011

Constitution of India - Art.226/227 - Code of Civil Procedure, 1908 - O.1 Rl.10 - Displaced Persons (C&R) Act, 1954 - S. 33 - Displaced Persons (C&R) Rules, 1955 - Rl.102 - Transfer of Property Act - S. 41 - Land Acquisition Act, 1894 - S. 48 - Forest (Conservation) Act, 1980 - S.2 - Land acquired in 1953 for construction of canal - Compensation paid to original owners - Land vested in irrigation Department, Govt. of Punjab - However, canal never constructed, but land notified as protected forest land - Land not evacuee land - Deceitful mechanism adopted to illegally allot land to original owners, and then transfer it to third parties - Allotment cancelled by Chief Settlement Commissioner - Order upheld by Financial Commissioner, Revenue - Third parties continued in possession of land ostensibly on the strength of internal memo of Revenue Department for release of unutilized land from acquisition - Land never released from acquisition by Govt. - No proceedings as per Land Manual, nor under S. 48 of the Land Acquisition Act - Moreover, land utilized - Whether land which is not evacuee land can be allotted, and whether such land can be allotted without govt. approval, and whether executive instructions can override provisions of Land Acquisition Act - Held, no - Writ petition allowed -Allotment, sale deeds in favour of third parties illegal and fraudulent - Writ petition unraveled the facts - Petition allowed, granting liberty to State to proceed against third parties.

Held, That after hearing learned counsel at length and examining the record and particularly the stern and well reasoned order of the Financial Commissioner Revenue dated 25.04.2000, we are of the considered view that in this case fraud was committed. In fact we are surprised that the

private respondent Nos.5 & 6 have had the temerity to protect their illegal possession and dubious ownership of land before us, of land acquired and declared protected forest area in the year 1952 and 1958 respectively, and seek to justify their continuance on the land.

(Para 15)

Further held, That the land in dispute is valuable land which would today virtually qualify as urban land in Kapurthala, and that this Court should extinguish all bad intentions of the private respondents to cling to the ill gotten land and to restore it to its lawful ownership of the State Government.

(Para 16)

Further held, that for the foregoing reasons, we hold that the letter dated 30.5.1991 (P-3) has no legal sanctity as it is not a final decision of the State Government and no rights flow from it to anyone much less the original owners of the disputed land as allottees or subsequent transferees. We, consequently, have no hesitation in issuing directions to the State Government to immediately cause restoration of this land to the Irrigation Department to be dealt with by it in accordance with law. All revenue record reflecting to the contrary is set aside, including the allotments and sale deeds that followed. We are convinced that fraud has been committed in this case by functionaries of Government in connivance with the original owners/ allottees and the vendees, the private respondents. We can say no more than that fraud vitiates everything.

(Para 17)

Vivek Thakur, Advocate, *for the petitioner.*

R.S. Khosla, Sr. Addl. AG, Punjab, for respondent Nos.1 to 4.

Naresh Prabhakar, Advocate, for respondent No.5.

Rohit Sud, Advocate, for respondent No.6.

RAJIV NARAIN RAINA, J.

(1) This petition filed by way of public interest litigation presents a gloomy picture of the unlawful actions of the Revenue Department of the State Government in Kapurthala, and particularly the dubious acts of the then Tehsildar-cum-Managing Officer by wrongly treating the land in issue

as evacuee property available for allotment. These bogus allotments dated 25.09.1992 and 30.09.1992 in favour of original owners of land which was acquired as long back as on 02.03.1953 for the purpose for construction of the Kapurthala Bein Canal System (in short 'KBCS') (Kapurthala Feeder) restored land to the original land owners to whom compensation stood paid. The apparent underhand dealings of the revenue authorities enabled the original allottees to illegally transfer the acquired land to land grabbers immediately after securing illegal allotments on 29.09.1992 and 09.10.1992 in their favour. To do so advantage was taken of the fact that the KBCS did not become functional and the project was abandoned and therefore, the deceitful mechanism was adopted with the connivance of the then Tehsildar-cum-Managing Officer to first make allotments to the original owners and then help transfer the lands by sale deeds unlawfully to land grabbers ostensibly under a recommendation of the revenue department dated 30.5.1991. That is how respondents 5 and 6 entered upon the land which is sought to be undone in this PIL filed under Art 226/227 of the Constitution.The prayer is for quashing the letter dated 30.5.1991 which was used for achieving the aforesaid result. The further prayer is for a mandamus to the State Government to remove encroachment on public land in question acquired on 2.3.1953 and to hold enquiry into the matter as to how public land fell into private hands. A narration of the background facts would be in order before we embark upon an examination of the impugned letter dated 30.5.1991 (P-3).

(2) This petition raises substantial issues involving public interest and has been brought by a person who served the State of Punjab at Kapurthala. The petitioner worked as Forest Guard from 1973 to 1978 and as Forester and Incharge Kapurthala Range from 2001 to 2005. He was, therefore, in a position to speak on facts and unfold this sordid story of the mechanism of land grabbers before this Court. The chain of events unfolds itself from the original acquisition of 1953 to transfer of land to third parties, allotment to original owners and allotment of land to third parties. The issue of illegal allotment raised in this petition stands settled upto the level of Financial Commissioner Revenue, Punjab vide order dated 25.04.2000 dismissing the petition under Section 33 of the Displaced Persons (C&R) Act, 1954 confirming the order of the Chief Settlement Commissioner, Kapurthala dated 6.9.1996 cancelling the allotment of land

measuring 15K-7M, the land in issue, being part of khasra No.45 situated in the revenue estate of Seenpur, District Kapurthala contiguous to the Kapurthala Feeder.

(3) The facts of the case have been elaborately spelt out in the well reasoned orders of Financial Commissioner Revenue dated 25.04.2000. We would, however, traverse the milestones of the case to address the legal issues raised in this PIL.

(4) The Department of Irrigation, Punjab long ago on 26.07.1952 acquired land in five revenue estates including the revenue estates of Seenpur and Kapurthala for the construction of an irrigation canal known as the Kapurthala Feeder. The land belonged partly to private land owners and partly to Central Government. A part of the said land measuring 106K-9M comprised in khasra Nos.44, 45, 46 & 53 falling in Seenpur was in the ownership of the Central Government and mutation of Central Government land ought to have been sanctioned in favour of Punjab Government in the Department of Irrigation in the year 1952 itself consequent upon acquisition of the land by the State of Punjab. That was, however, not done and mutation was sanctioned only on 5.3.1991. The revenue record as on 5.3.1991 of village Seenpur showed that the Punjab Government was owner of the said land. Though the land vested with the Punjab Government but for some reason the Kapurthala Feeder did not become functional and the project was abandoned. It appears that there was a problem of draining out rain water in about 25 low lying villages in and around the area in question falling in Kapurthala and Jalandhar districts. To cure the problem, the Irrigation Department, Punjab excavated the Wadala drain in the year 1962- 63 to drain out the water by utilizing part of the land acquired for the Kapurthala Feeder. This land fell in Khasra Nos.44, 45 and 46; khasra No.45 being the land in question. The remaining land required for aligning the Wadala drain belonged to the private owners which land was duly acquired for the purpose under the provisions of the Land Acquisition Act, 1894.

(5) It transpires that some of the private land owners whose land had been acquired in 1952 for the public purpose of construction of Kapurthala Feeder requested the Government to release their unutilized land in their favour. This request was processed by the Deputy Commissioner,

Kapurthala in purported exercise of his powers in relation to the Revenue Department and by memo dated 30.05.1991. He conveyed his approval for adopting such course to the Commissioner, Jalandhar Division for release of land acquired for the KBCS. This memo letter was general in nature and did not mention any khasra number. In any case the request of the Government could be dealt with only by the Administrative Department of the State Government i.e. Irrigation Department, Punjab being owner of the property after acquisition. We would reiterate the fact that khasra No.44, 45 and 46 at Seenpur already stood utilized for construction of the Wadala drain way back in the year 1962-63 and these khasra numbers in revenue record were shown belonging to the Irrigation Department. It appears that the memo dated 30.5.1991 was abused by the Tehsildar-cum-Managing Officer of the Kapurthala as a final decision for release of land and allotments were made between 25.9.1992 and 30.9.1992. **To this end he passed five different** orders in the name of original land owners (who were owners prior to 1952) i.e. Teja Singh, Ishvar Dass, Balwant Lal and Jagdish Lal who were respondent Nos.3 to 6 before the Financial Commisioner represented by Mohan Singh, Kanungo, general attorney in the case of alleged heir of Teja Singh and one Wazir Singh acted as common general attorney of the remaining land owners. Taking advantage of the illegal allotment at great speed five registered sale deeds were executed by the General Attorney of the legal heirs of the allottees in favour of third parties. When these illegal transactions came to light, a reference was moved before the Deputy Commissioner-cum-Chief Settlement Commissioner, Kapurthala for cancellation of allotments. The then Chief Settlement Commissioner, Kapurthala vide order dated 16.11.1994 cancelled the allotments and passed strictures against the Tehsildar for committing irregularities. No Government approval was obtained by the Tehsildar-cum-Managing Officer, Kapurthala which was mandatory under Government instructions dated 12.08.1970. Besides, the land allotted unlawfully was further illegally sold thereafter in violation of Rule 102 of the Displaced Persons (C&R) Rules, 1955. Before the Chief Settlement Commissioner the allottees though served did not appear and were represented by the vendees to contest the case.

(6) It appears that the vendees challanged this order of the then Financial Commissioner Revenue who vide order dated 4.4.1995 remanded the matter back to the Chief Settlement Commissioner, Kapurthala for

determination of the question that on de-notification whether the land reverted to the Central Government or became part of the properties falling in the "Package Deal" entered into by the Punjab Government with the Central Government. It was felt by the FCR that this issue had not been touched and therefore required examination afresh. On remand, the Deputy Commissioner-cum-Chief Settlement Commissioner, Kapurthala passed a fresh order and the reference was answered by again ordering the cancellation of allotment vide order dated 06.09.1996. It was against that order that the vendees filed a revision petition under Section 33 of the 1954 Act before the Financial Commissioner Revenue. Two issues raised by the vendees before the Financial Commissioner were that the land was available for allotment and had been de-notified and that there were bona fide purchasers without notice and, therefore, protected by Section 41 of the Transfer of Property Act. The sole issue raised for their claim against khasra No.45 was that the Punjab Government had de-notified the khasra number vide letter dated 30.05.1991 and, therefore, the land reverted to the Central Government and was available for allotment. It was argued that after de-notification the possession of the State Government became unauthorized. They, however, admitted that land comprised in khasra No.45 subject matter of the present proceedings was duly acquired on 26.07.1952 from the original land owners from whom they had purchased it in 1992. The Financial Commissioner Revenue in her elaborate order found that the so called de-notification dated 30.05.1991 was only an internal letter issued by the Revenue Department addressed to the Commissioner, Jalandhar with copies endorsed to the Deputy Commissioner, Kapurthala and the Executive Engineer, Bist Doab Jalandhar (Canals) Irrigation Department conveying the approval of the Revenue Department to the release of certain acquired land to the original owners or right-holders. No formal de-notification took place through this letter. It was only a proposed release, the details of which, if at all, were to be put in motion or were required to be worked out by the owner i.e. the Irrigation Department. The Financial Commissioner was correct in appreciating that the mere tentative permission by the Revenue Department to release of certain acquired land did not imply denotification. Consequently, the land in issue was not available for allotment at all. The disputed khasra No.45 stood in any case utilized by the Drainage Department for construction of Wadala drain in the year 1962-63 along with some more land acquired for the purpose. There is a telling observation in the order

dated 25.04.2000 of the Financial Commissioner Revenue that relevant Government records had not been placed before the predecessor Financial Commissioner Revenue by the then State counsel otherwise there would have been no remand of the case on a technical point. The deviousness of the vendees carried them as plaintiffs before the Civil Court in Civil Suit No.99 of 1990-91 before the sale deeds were executed in 1992 in the capacity of proposed vendees and they had obtained a status quo order from the Civil Court. It was during the currency of the order of status quo by the Civil Court that the fraud was committed with the pliable Tehsildar-cum-Managing Officer, Kapurthala at hand to make allotment of land and help them to execute sale deeds. The civil suit was dismissed in favour of the Punjab Government on 16.12.1992. We are startled that the Tehsildar permitted a statement to be made before him by the original owners that depsite the existence of the order of status quo from the Civil Court he had no objection to the allotment of land to Pritam Singh grandson of Teja Singh since his (Gurbachan Singh's) sons had executed an agreement for the purchase of this land with him and stay order of the Court was not applicable in such a situation. Thus learned Financial Commissioner Revenue affirmed that Gurbachan Singh father of the petitioners before the Court had masterminded the entire transaction of allotment with the avowed object of regularizing the possession of his sons by purchasing the land from the allottee. It seems apparent that the vendees had come into occupation of the land much before the allotment.

(7) We could do no better than the Chief Settlement Commissioner, Kapurthala in his first order dated 16.11.1994 to sum up the matter in a jist which is as under:-

> *"(a) the land allotted was and is still recorded in the ownership of Punjab Government and it was not recorded as evacuee land in the revenue record. It was not available for allotment.*
>
> *(b) Even if it had been evacuee land the approval of the Government was required before its allotment since the land was situated within one mile of the Municipal limits. The Government approval was not obtained.*
>
> *(c) The possession of the land was not given to the allottees.*

(d) The land was wrongly classified as Barani in one case and the remaining four cases there was no goshwara allotment in the absence of which the land could not have been allotted at all.

(e) The allotted land was sold without any approval."

(8) This Court issued notice of motion on 26.11.2009 of this petition to the respondents. They appeared and have filed separate written statements, that is, the Divisional Forest Officer, Jalandhar at Phillaur on behalf of the State Government i.e. respondent Nos.1 and 2; respondent No.3 the Irrigation Department and owner of the land has filed a written statement in the shape of counter affidavit of Amarjit Singh Chahal, S.D.O. Jalandhar Sub Division, P.W.D. (Irrigation Branch) Jalandhar. A separate reply has been filed by Sh. Rakesh Bhalla, Deputy Secretary Revenue, Punjab on behalf of respondent Nos.1, 3 & 4. The private respondent No.5 has filed a written statement through Sh. Naresh Prabhakar, Advocate. Since the land owners were not impleaded by the petitioner as party to the petition respondent No.5 an effected land owner had applied under Order 1 Rule 10 CPC for being made party to this matter. Private respondent No.6 has also filed reply.

(9) We would firstly deal with the written statement filed by the owner i.e. PWD Irrigation Branch, Jalandhar for whom the land was acquired and in whose name the property vests. They have stated that the total land acquired measured 121 Kanal 5 Marlas vide notification dated 26.07.1953. Out of this total land the Department returned land of 26 kanals vide notification dated 30.05.1991. According to this notification the land measuring 2 Kanal 11 Marla in khasra No.7969/4617 was not de-notified and the land measuring 2 Kanal 11 Marla remained in possession of the Irrigation Department and its proprietorship also remained vested with the Punjab Government. Therefore, land measuring 2 Kanal 11 Marla has nothing to do with the land shown in the notification dated 30.05.1991. The Irrigation Department then came to know about this fact when the Department checked the revenue record of this case and also obtained copy of Fard Jamabandi for the year 2000-01 from the Revenue Department on 24.02.2010 and on examining this fact, the Department came to know of the wrong action taken by the Revenue Department. No notice of this action

was ever issued to the Irrigation Department by the Revenue Department before changing the name of ownership of the vested interests namely Hari Budh Singh s/o Narinder Singh, the fifth respondent. We could next turn to the affidavit filed by the Deputy Secretary Revenue, Punjab. The Revenue Department had sought to justify the action citing Para 87 of Financial Commissioners' Standing Orders No.28 read with paras 493 to 495 of the Punjab Land Administration Manual where land in the permanent occupation of any department of the Punjab Government is no longer required, it should be handed over to the Deputy Commissioner of the District to deal with the same and who would be guided by paragraphs 493 to 495. Paras 493 to 495 are as under:-

> *"493. Where land in the permanent occupation of any department of the Punjab Government is no longer required, it should be handed over to the Deputy Commissioner of the district, who becomes responsible for the disposal of it under the orders of the Commissioner. It may not, however, be permanently alienated without the previous sanction of Government. There is no legal bar to its being put to auction. But, as a matter of grace, Government is usually willing to restore agricultural and pastoral land to the persons from whom it acquired it or to their heirs on their refunding the amount paid as compensation less than 15 per cent granted for compulsory acquisition. The price may be lowered, if necessary, on account of deterioration, or enhanced in the rare case of land having been improved by the use to which the Government had put it. The improvement must be one affecting the quality of the land. The fact that land which was unirrigated at the time of acquisition can, when relinquished, be watered by a canal is not an improvement of this sort. Considering how great the rise in the market value of land has been, the terms stated above are very liberal. It is not necessary to adopt them in their entirety where the persons concerned are remote descendants or relations of the original holders. And where the circumstances of the case are at all out of the common,*

when, for example no price, or merely a nominal price, was paid to the owner in the first instance, or when the rise in the value of land in the neighbourhood has been exceptionally large, these facts should be pointed out when referring such cases for orders so that Government may have sufficient material before it to decide whether to offer any special terms to the heirs of the persons from whom that land was acquired. In the case of rendition of land under 'Kassies' and abandoned water channels which came under the possession of the Irrigation Department free of cost, land should be restored to the original owners or their heirs free of charge."

"494. In the case of plots which from their size or shape are practically of no value to any one but the owners of the adjoining fields, Government will be prepared to consider proposals for giving the owners the option of purchasing at the market value. The mere fact is that an outsider is prepared to outbid them should not deter the Deputy Commissioner from recommending to Government the acceptance of any fair offer which they may make."

"495. If the heirs of the original owners cannot be traced, or if they or the proprietors of adjoining land decline to accept the terms approved by Government, a further reference to Government will be necessary if it is proposed to alienate the land permanently in some other way."

(10) It is unfortunate that Revenue Department has still insisted before this Court in the PIL to justify unlawful actions of the Department and have conveniently stated on affidavit that the land has been restored to original owners from whom it was acquired in view of the provisions of Standing Orders No.28 referred to in letter dated 30.05.1991. They have completely wished away the findings of the Chief Settlement Commissioner and the Financial Commissioner Revenue which orders have attained finality. The short affidavit filed by the Divisional Forest Officer reflects that the land on either side of the canals was declared as protected Forest Area vide notification dated 03.05.1958 and that the Forest Department planted trees

on the banks of canal which in time were duly enumerated in its record. It has been further stated that on an examination of the enumeration record of the year 2005-06 action against persons who violated the provisions of the Forest Act is being taken in accordance with the forest laws. The position emerges that the land was acquired in 1952. The land in question was notified as a protected forest area in 1958 and, therefore, there could be no change of land use without environmental clearance at the highest quarters in the Government of India. We are surprised that in the written statements filed other than by the Forest Department the letter dated 30.05.1991 is still being dealt with as de-notification of land. We find that the letter dated 30.05.1991 (Annexure P-3) at Page 17 of the paper book is only a proposal which has never culminated in a final order of a competent authority. This letter has been used as a whip to cause grevious public loss by those very custodians of public property that were required to protect it. We need not dilate on the stand of the private respondents here as they have not been able to dislodge before us through their learned counsel at the hearing, the findings of the Financial Commissioner Revenue which has not been shown to us to have been modified, rescinded, varied or set aside by any superior Court.

(11) Mr. Naresh Prabhakar Learned counsel appearing for the private respondent No.5 has strongly relied upon a letter of the Deputy Commissioner, Kapurthala written to the Commissioner, Jalandhar Division, Jalandhar dated 22.03.1991 (Annexure R-5/2 at page 110 of the paper book) to contend that the Irrigation Department itself by letter dated 01.01.1991 had intimated to the Deputy Commissioner, Kapurthala that the land was acquired for the construction of Kapurthala Feeder and since the scheme stands abandoned, the land has become surplus to the requirement of Irrigation Department and accordingly the said land is surrendered for restoring it to the owners of the land or as the case may be. We asked Mr. Prabhakar so show us any document or concluded decision of State Government/competent authority declaring the land surplus before the Tehsildar-cum-Managing Officer could exercise jurisdiction in the matter. He was unable to point out anything from the record of anything even remotely akin to a final determination of surplus land before the same could be applied towards legally permissible diversion or restoration of ownership

or creation of fresh ownership rights which could be legally sustainable. We are afraid, we cannot protect the ownership of the fifth and sixth respondent or any private person for that matter, on the strength of this letter.

(12) Mr. Prabhakar has then placed reliance on a decision of the Hon'ble Supreme Court in the case of **State of Haryana and another *versus* Suraj and others (1),** as covering his case in so far as it deals with Standing Order 28 and paragraph 493 of the Land Administration Manual. He read para 4 of the judgment before us. We reproduce it below:-

> *"4. It was submitted that in this case the land was required for plantation of trees by the Forest Department. It was submitted that the respondents had no right to claim back possession of the land. We see no substance in this submission. By the order dated 28-6-1977, the Government has already declared this land to be surplus. Now the same was to be disposed of as per Standing Order 28. A perusal of Standing Order 28 shows that the Financial Commissioner has to dispose of the land as per paragraphs 493-95. It could not be disputed that paragraphs 493-95 do not permit giving of such land free of cost to the Forest Department. Under paragraph 493, the land has to be offered to the owners on the conditions mentioned therein. Further, the order dated 28.06.1977 also clarified that priority had to be given to the landowners. Thus, there is no infirmity in the orders of the courts below. We, therefore, see no reason to interfere."* (underlined for emphasis)

(13) A plain reading of the above would show that in that case there was an order in existence dated 28.06.1977 where the Government of Haryana had already declared the land to be surplus and, therefore, it could be dealt with in terms of the Land Administration Manual. In the present case, there is no such final order or declaration by the State Government as to surplus. The case is clearly distinguishable on facts.

(14) We have also given our thoughtful consideration of the matter from the point of view of the land having been notified as a protected forest area by the 1958 notification. In the face of the 1958 notification, it would be difficult to hold that forest land can also be dealt with under paragraphs

(1) 2004 (12) SCC 538

493 to 495 of the Land Administration Manual. The power of restoration under paragraph 493 can only be read in the context of its stated purpose, that is, for restoration of agricultural and pastoral land to persons from whom it was acquired or to their heirs etc. on their refunding the amount paid as compensation etc. This paragraph of the manual does not appear to cover the disputed land and especially land declared as protected forest area after closure of the acquisition proceedings. Thereafter, the land could only be dealt with, as pointed out by Mr. Vivek Thakur, Advocate for the petitioner, under the provisions of Section 48 of the Land Acquisition Act, 1894 which would then hold the field and any withdrawal would have to by issuance of a notification in the official gazettee. He relies upon **M/s. Larsen and Toubro Ltd. *versus* State of Gujarat and others (2),** to support his argument. It has been held therein that a notification in the official gazettee is required to be issued if the State Government decides to withdraw from the acquisition under Section 48 of the Land Acquisition Act, 1894 of any land of which possession has not been taken. In this case, possession was admittedly taken more than half a century back. We feel that paragraph 493 flies in the face of Section 48 of the Land Acquisition Act. Executive instructions or land manuals cannot alter the special law. They can only supplement it. The same cannot rewrite Section 48. Mr. Thakur has also relied upon a decision in the case of **T.N. Godavarman Thirumulkpad *versus* Union of India and others (3),** to impress upon us the stringent application of forest laws under the Forest (Conservation) Act, 1980 an act which has been enacted to check deforestation to avoid ecological imbalances. A very broad meaning has been given to the word 'forest' in the 1980 Act and would include all forests irrespective of the nature of ownership or classification and whether they are described as reserve, protected or otherwise. Forest would include forest land irrespective of the ownership and that is how the word has to be understood for the purposes of Section 2 of the 1980 Act. Mr. Thakur has cited this judgment to supplement his argument.

(15) After hearing learned counsel at length and examining the record and particularly the stern and well reasoned order of the Financial Commissioner Revenue dated 25.04.2000, we are of the considered view that in this case fraud was committed. In fact we are surprised that the

(2) 1998 (4) SCC 387
(3) AIR 1997 SC 1228

private respondent Nos.5 & 6 have had the temerity to protect their illegal possession and dubious ownership of land before us, of land acquired and declared protected forest area in the year 1952 and 1958 respectively, and seek to justify their continuance on the land.

(16) Mr. Vivek Thakur, Learned counsel for the petitioner informs us that the land in dispute is valuable land which would today virtually qualify as urban land in Kapurthala, and that this Court should extinguish all bad intentions of the private respondents to cling to the ill gotten land and to restore it to its lawful ownership of the State Government.

(17) For the foregoing reasons, we hold that the letter dated 30.5.1991 (P-3) has no legal sanctity as it is not a final decision of the State Government and no rights flow from it to anyone much less the original owners of the disputed land as allottees or subsequent transferees. We, consequently, have no hesitation in issuing directions to the State Government to immediately cause restoration of this land to the Irrigation Department to be dealt with by it in accordance with law. All revenue record reflecting to the contrary is set aside, including the allotments and sale deeds that followed. We are convinced that fraud has been committed in this case by functionaries of Government in connivance with the original owners/allottees and the vendees, the private respondents. We can say no more than that fraud vitiates everything.

(18) We set the State Government at liberty to consider and decide in its wisdom whether to proceed against respondents 5 and 6 as encroachers on public land and to recover mesne profits from them, if law permits. It may also inquire into the conduct of erring official/s and take suitable action as deemed fit and in accordance with law.

(19) The writ petition is accordingly allowed with costs quantified at Rs.20,000/- to be paid by respondents 5 & 6 jointly and severally to be deposited in the State Legal Services Authority, Punjab, Chandigarh and proof of payment be produced before the Registrar General of this Court within two months from the date of receipt of certified copy of this order, failing which the Member Secretrary, State Legal Services Authority, Punjab would recover costs as arrears of land revenue.

(20) We express our appreciation to the petitioner to have brought this cause before us for corrective surgery.

P.S. Bajwa