
(2004) 03 P&H CK 0092
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4214 of 1983

Ajit Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 17-03-2004

Acts Referred:

Citation : (2004) 3 RCR(Civil) 294

Hon'ble Judges : Surya Kant, J

Advocate : Mr. A.S. Grewal, Sr. Advocate with Ms. Tanisha Peshawaria, Advocate. For the Respondent Nos. 1, 3 and 5, Mrs. Rupinder Wasu, Addl. A.G., Punjab, Mr. Narinder, Advocate for Mr. G.S. Nagra, Advocate., Advocates for appearing Parties

Judgement

Surya Kant, J.

1. This order shall dispose of Civil Writ Petitions No. 4214 and 4421 of 1983 as both questions of law and facts involved in these petitions are common. For the sake of brevity, the facts are taken from Civil Writ Petition No. 4214 of 1983.

2. Ajit Singh petitioner has approached this Court under Article 226 of the Constitution of India, for issuance of a writ in the nature of Certiorari for quashing the order dated October 20, 1982 issued on April 12, 1983 (Annexure P2), whereby his contention, that the interest evacuee in the lands described as Shamlat deh never vested in the Gram Panchayat under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 and as such the Gram Panchayat (respondent No. 4) was not competent to seek his eviction from the evacuee land in his possession, was rejected.

3. The controversy between the right of the Gram Panchayat to the Shamlat deh lands and of the Rehabilitation Department of the Central Government to the extent of evacuee interest therein, having arisen due to apparent conflict between the Central Act namely Administration of the Evacuee Property Act, 1950 on the one hand and the Punjab Village Common Lands (Regulation) Act,

1953 (subsequently repealed by Punjab Village Common Lands (Regulation) Act, 1961) on the other hand, has been set at rest by the Hon"ble Supreme Court in its decision in Gram Panchayat of Village Jamalpur v. Malwinder Singh and others, AIR 1985 SC 1394 : 1985 RRR 249 (SC), the relevant part of which reads as under :

"We have already noticed that the effect of the Administration of the Evacuee Property Act was not to take away the character of Shamlat deh as Shamlat deh but only to vest in the Custodian such interest as the evacuee possessed in the Shamlat deh. The interest which the erstwhile evacuees possessed in the Shamlat deh was neither enlarged nor abridged. The land continued to be Shamlat deh and it could be the subject of competent State Legislation as Shamlat deh. If for the purposes of agrarian reform the legislature of the State enacted a law as it was competent to do, and consent to which was accorded by the President under Article 31A of the Constitution, we do not see any justification for the argument that there was any conflict between the Punjab Act and the Central Act. To illustrate, it would be wholly wrong to suggest that on a Zamindari becoming vested in the Custodian on account of the Muslim Zamindar (intermediary) migrating to Pakistan raiyati land in the village changed its character and the occupancy rights of the raiyats ceased in the lands, merely because the Zamindar migrated to Pakistan and the Zamindari became vested in the Custodian. Similarly, lands in an erstwhile Zamindari set apart for pasture, as grazing grounds etc. did not lose their character as such on the migration of the Zamindar to Pakistan. When the Parliament and the State Legislature, each of them legislate in their own field with respect to different subjects in this case Evacuee Property and Shamlat deh we do not find any reason to conclude that there was necessarily a conflict between the two legislations. The question in the present case is not whether there was any conflict between the Central and the State Legislations but whether the legislature of the State could make a law relating to agrarian reform in respect of property which included property which by a process of law had become vested in the Central Government or the Custodian. We do not see any reason why the State Legislature should be considered incompetent to make a law relating to agrarian reforms as it has been found to be so in the present case, even if it affects land vested in the Central Government or the Custodian."

In view of the aforesaid authoritative pronouncement by the Apex Court, I do not find any merit in these writ petitions and the same are accordingly dismissed. No order as to costs.

Petitions dismissed.