
(1993) 04 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 145 of 1983

Amrit Kaur

APPELLANT

Vs

Resham Singh

RESPONDENT

Date of Decision : 29-04-1993

Acts Referred:

Citation : (1993) 2 LJR 568 : (1993) PLJ 409 : (1993) 2 RRR 607

Hon'ble Judges : Jawahar Lal Gupta, J

Advocate : S.P. Jain, Vikas Singh, Advocate, Sarjit Singh, Sr. Advocate, R.L. Aneja, Advocates., Advocates for appearing Parties

Judgement

Jawahar Lal Gupta, J. (Oral)

1. The petitioner is aggrieved by the orders dated August 9, 1979, November 21, 1980 and August 19, 1982 passed by the Collector, the

Commissioner and the Financial Commissioner respectively. A few facts which are admitted by the counsel for the parties may be briefly noticed.

2. The petitioner is a small landowner. She alongwith her mother and sisters moved an application in Form K1 for the ejectment of Resham Singh

from land measuring 9 kanals 19 marlas situated in village Basti Mithu, Jalandhar. Vide order dated December 10, 1970, the Assistant Collector,

1st Grade, Jalandhar ordered the ejectment of Resham Singh but ordered that ""this order willbe executed when Resham Singh is resettled on an

alternate land in the surplus pool by the Circle Revenue Officer."" The petitioner claims that in execution of this order, respondent Resham Singh

(whose legal representatives were impleaded vide order dated December 14, 1992) was actually dispossessed from the land. Thereafter, the

respondent filed ""various civil suits"" questioning his dispossession but failed. Ultimately, he approached the Assistant Collector, 1st Grade for

restoration of possession. Initially, the Assistant Collector ordered the restoration of possession in favour of respondent No. 1 but on appeal, the order was set aside and the case was remanded for fresh decision. Vide order dated May 15, 1973, a copy of which has been produced on record as Annexure P1, the Assistant Collector rejected the application for restoration filed by Resham Singh. Aggrieved by this order, respondent No. 1 filed an appeal before the Collector. Vide order dated August 9, 1979 (copy at Annexure P2), the Collector accepted the appeal and ordered the restoration of possession of the land to Resham Singh. The petitioner alongwith her sisters filed an appeal before the Commissioner. It was dismissed vide order dated November 21, 1980. The revision petition filed by the petitioner was dismissed by the Financial Commissioner vide order dated August 19, 1982, a copy of which has been place on record as Annexure P4. Aggrieved by this order, the petitioner has approached this Court through the present writ petition.

3. Another fact which may be noticed here is that on January 19, 1993, the petitioner moved an application viz. C.M. No. 668 of 1993 stating inter alia 711 that "the husband of the petitioner visited the office of the Collector Agrarian and was informed that Resham Singh, respondent had already been allotted 31 kanals 5 marlas of land vide order dated March 3, 1964." It was further averred that an application had been made by Resham Singh on March 8, 1989 to the Sub Divisional Officer (Civil) praying that the price of the land allotted to him vide order dated March 3, 1964 may be assessed so as to enable him to pay it. on the basis of these averments, it was prayed that the petitioner may be allowed to place on record the order of allotment passed on March 3, 1964 and the application dated March 8, 1989 filed by respondent No. 1. This application was allowed.

4. A written statement was filed on behalf of respondent No. 1. The claim made in the petition was controverted and it was claimed that the Orders passed by the revenue authorities were legal and valid. A reply has also been filed to Civil Miscellaneous Application No. 668 of 1993. In this reply, it has been inter alia averred that the ejectment order relating to the present case was passed on December 10, 1970 while the respondent had been allotted land measuring 11 kanals 5 marlas vide order

dated March 3, 1964. On this premises, it has been averred that the order dated March 3, 1964 has no relevance with this writ petition.

5. I have heard learned counsel for the parties.

6. Mr. Sarjit Singh, learned counsel for the petitioner has raised a twofold contention. He submits that vide order dated December 10, 1970, the

Assistant Collector 1st Grade, Jalandhar had ordered the ejectment of the respondent from the land and the possession was thus rightly restored to

the petitioner. He further submits that it was for the respondent to move the authorities under Rule 15 of the Punjab Security of Land Tenures

Tenancy Rules, 1956 for resettlement on surplus area. Learned Counsel further submits that in fact, the respondent had been allotted land

measuring 31 kanals 5 marlas vide order dated March 3, 1964, and he was thus duly resettled. As such it is submitted that the possession had

been rightly delivered to the petitioner and the revenue authorities have erred in ordering the restoration of the possession to the respondent.

7. On the other hand, Mr. R.L. Aneja, learned counsel for respondent No. 1 contends that under Rule 15, an application Could have been filed by

the tenant only within a period of two months from August 19, 1960 and since the order in the present case was passed by the Assistant Collector

on December 10, 1970, the provisions of Rule 15 cannot be invoked by the petitioner. He further submits that an allotment made to the

respondent on March 3, 1964 can have no relation to the directions contained in the order passed on December 10, 1970.

8. The primary objects of the tenancy laws is to ensure that a tenant who is poor is provided adequate means for his livelihood before he is evicted

from any land belonging to a small landowner. It is with this object in view that the Assistant Collector while passing the order dated December 10,

1970 had directed that the order shall be executed when the respondent is settled on an alternate land in the surplus pool by Circle Revenue

Officer. In case, the respondent had been allotted land even prior to the passing of the order on December 10, 1970 and he stood resettled, the

petitioner would have been entitled to the ejectment of the tenant straightaway. However, in case, he had not been resettled, then either the tenant

should have moved the application or the Circle Revenue Officer should have proceeded sou motu under Rule 16 of the aforesaid rules and

allotted land to the respondent from the surplus pool. Curiously, neither the order dated March 3, 1964 was brought to the notice of the revenue

authorities by the parties nor the Circle Revenue Officer proceeded in accordance with the provisions of Rule 16.

9. In this situation, it appears appropriate to remand the case to the learned Financial Commissioner for deciding the matter afresh giving the parties

such opportunity as he may consider proper and adequate in the circumstances of the case. In case, the learned Financial Commissioner finds that

the respondent (now his legal representatives) had been allotted land in lieu of the land of the petitioner on March 19, 1964, nothing more may be

required to be done. In case, he finds that land measuring 31 kanals 5 marlas was allotted to the respondent in lieu of some other land which had

no connection with the land of the petitioner then he will decree the Circle Revenue Officer to proceed in accordance with Rule 16 or any other

corresponding provision made in that behalf and allot the land to the respondent as expeditiously as possible.

10. The writ petition is accordingly allowed. The order dated August 19, 1982 (copy at Annexure (4) is set aside. It is directed that the Financial

Commissioner shall redecide the matter after taking into consideration the aforesaid observations expeditiously preferably within six months.

11. Learned counsel for the petitioner contends that the petitioner is in actual physical possession of the land even today. This fact has not been

controverted by the learned counsel for the respondents. In this situation, it is directed that till the matter is decided afresh by the Financial

Commissioner or by the Circle Revenue Officer, the status quo regarding possession as existing today shall be maintained. The petitioner shall

continue to be in possession but at the same time, she will not alienate the property in any manner whatsoever. The parties through their counsel

have been directed to appear before the Financial Commissioner on May 26, 1993 when he would give them date for further proceedings. In the

circumstance of the case, there will be no order as to costs.