
(2008) 12 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 5236 of 2004

Azad Singh and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 19-12-2008

Acts Referred:

Citation : (2009) 5 RCR(Civil) 616

Hon'ble Judges : J.S.Khehar, J

Advocate : Mr. Vikram Singh Dhakla, Advocate.For the Respondent Nos. 1 to 4:-
Ms Ritu Bahri, DAG, Haryana.For the Respondent Nos. 5 to 13, Mr. Tara Chand
Dhanwal, Advocate., Advocates for appearing Parties

Judgement

J.S. Khehar, J. (Oral)

1. Through the instant writ petition, the petitioners have impugned the orders passed by the revenue authorities, which eventually culminated in the order dated 13.01.2004 (Annexure P4) passed by the Financial Commissioner, Haryana, dismissing the revision petition filed by the petitioners.

2. The first issue canvassed by the learned counsel for the petitioners, as was also canvassed by the petitioners before the revisional authority, is that the land which has been declared surplus in the hands of the big land owners under the Punjab Security of Land Tenures Act, 1953, ought to be returned to such big land owners while considering the issue of surplus land under the Haryana Ceiling on Land Holdings Act, 1972.

3. Insofar as, the first issue is concerned, we are of the view, that the Apex Court has repeatedly held, that the provisions of the Haryana Ceiling on Land Holdings Act, 1972, do not permit the recomputation of surplus area by taking into consideration such land, which was declared surplus in the hands of a big land owner under the provisions of the Punjab Security of Land Tenures Act, 1953. In this behalf, reference may be made to the decisions of the Apex Court in Sampuran Singh v. State of Haryana, 1994(3) RRR 113 : 1994(2) PLR 420,

Smt. Bhagwanti Devi and Anr. v. State of Haryana and Anr., 1994(3) RRR 115 : 1994(2) PLR 423, Amar Singh v. Ajmer Singh, 1994(3) RRR 90 : 1994(3) PLR 433 and Kanshi Ram v. State of Haryana and others, 1991(1) RRR 585 : 1991 PLJ 106. In view of the authoritative determination on the issue canvassed by the learned counsel for the petitioners in the judgments referred to hereinabove, it is not possible for us to accept the first contention advanced by the learned counsel for the petitioners.

4. The second contention advanced by the learned counsel for the petitioners is, that the land in question, which was declared as surplus under the provisions of the Punjab Security of Land Tenures Act, 1953 remained unutilised, and as such, the petitioners were entitled to redetermination of the same under the provisions of the Haryana Ceiling on Land Holdings Act, 1972.

5. Insofar as, the instant issue is concerned, a reference to the joint written statement filed on behalf of respondents No. 1 to 4, and specially to paragraph 1 of the preliminary objections contained in the said written statement reveals, that the land of the petitioners after the same was declared surplus by the Collector, Agrarian, Gohana, vide order dated 04.12.1959, came to be vested in the State of Haryana. Thereafter, the Sub Divisional Officer (Civil) cum Prescribed Authority, Meham, vide order dated 05.11.1976 allotted the land in question to the eligible persons under the scheme framed by the Government. Thus viewed, it is apparent, that the land in question did not remain unutilised, and as such, we find no merit in the instant contention advanced by the learned counsel for the petitioners, as well. It needs to be clarified, that this determination of ours should not be read to mean, that if land remained unutilised, it could be subject matter of reconsideration for allotment under the provisions of the Haryana Ceiling on Land Holdings Act, 1972.

6. The third and last contention advanced by the learned counsel for the petitioners is, that the challenge to the claim of the petitioners, wherein the land in question was on a redetermination under the provisions of the Haryana Ceiling on Land Holdings Act, 1972 reverted with the petitioners, could not have been raised by the allottees, especially on account of the fact, that the allotment made in their favour stood cancelled and was declared as void

7. Insofar as the third contention advanced by the learned counsel for the petitioners is concerned, the same is wholly misconceived. The Financial Commissioner, Haryana in the impugned order dated 13.01.2004 has clearly noticed the strength, which the petitioners wielded so as to enable them to retrieve the land, which was declared as surplus under the Punjab Security of Land Tenures Act, 1953 and under the Haryana Ceiling on Land Holdings Act, 1972. As already noticed hereinabove, this determination was wholly unjustified, in terms of the decision rendered by the Apex Court. It is not appropriate for us to accept the instant technical plea so as to upset the impugned order passed by the Financial Commissioner, Haryana dated 13.01.2004 (Annexure P4) in exercise of our jurisdiction under Article 226 of the Constitution of India,

especially after we have arrived at the conclusion, that the action of allotment in favour of the petitioners was clearly contrary to the law laid down by the Apex Court.

For the reasons recorded herein above, we find no merit in this writ petition and the same is accordingly dismissed.