
(1992) 02 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 927-M of 1991

Baljeet Singh and anr.

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-02-1992

Acts Referred:

Citation : (1992) 1 AICLR 683 : (1992) 1 RCR(Criminal) 620 : (1994) 2 RRR 664

Hon'ble Judges : B.S.Nehra, J

Advocate : M. S. Yadav, S.P. Laler, Advocates for appearing Parties

Judgement

B. S. Nehra, J.

1. According to the first information report No. 140 dated 10101988 registered at Police Station Radaur, the District Town Planner, Kurukshetra, informed the police that the petitioners were joint owners of agricultural land measuring 1135 square metres equivalent to 1350 sq yards and they sold the said land, for the purpose of being made into plots for residential purposes in contravention of the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as the Act and therefore, sought their prosecution for an offence under Section 10 of the Act. In this petition, the petitioners have sought quashing of the said first information report on the ground that they have jointly sold their land and the share of each of them in the said land comes to less than 1000 metres and, the case is covered by definition of colony in Section 2 (c) of the Act. This provision reads as under :

"2 (c) "colony" means an area, of land divided or proposed to be divided into plots for residential, commercial or industrial purposes, but an area of land divided or proposed to be divided.

(i) for the purpose of agriculture, or

(ii) as a result of family partition, inheritance, succession or partition of joint holding not with the motive of earning profit;

- (iii) in furtherance of any scheme sanctioned under any other law; or
- (iv) by the owner of a factory for a setting up a housing colony for the labourers or the employees working in the factory provided there was no profit motive; or
- (v) when it does not exceed one thousand square metres, shall not be a colony."

2. The contention of the learned Assistant Advocate General, Haryana, who appeared for the respondent, is that it cannot be said that the petitioners were owners of the disputed land to the extent of 1/2 each and, therefore, the contention of the petitioners to wriggle out of their liability is untenable. While it is true that there is no material on the record to support the petitioners contention that they are owners to the extent of onehalf each in the disputed land, yet the presumption has necessarily to be drawn in their favour, viz, that they are owners in equal shares because the respondent has not been able to show that their shares are so specified that it negatives the petitioners contention regarding their ownership to the extent of onehalf each. Viewed in this perspective, an inference has to be drawn in favour of the petitioners that they had individually sold less than 1,000 sq. metres.

3. The observations of the Punjab and Haryana High Court in *Anant Parkash Jain and others v. The State of Haryana*, 1989 (2) Punjab Law Reporter 701, have a direct bearing on the facts of the instant case. In *Anant Parkash Jain's* case (*supra*), four brothers had sold 3234. 20sq. metres of land in favour of seven persons. The Court held that the area sold per person was less than the prescribed limit and hence it quashed the proceedings under the Act.

4. For the reasons recorded above, this petition, is allowed and the first information report in question and the subsequent proceedings initiated on that report are quashed.