
(1962) 12 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 644 of 1962

Bhagirath and another

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 20-12-1962

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Punjab Security of Land Tenures Act, 1953 — Section 10A, 10A(c), 19B

Citation : (1962) 12 P&H CK 0034

Hon'ble Judges : Shamsheer Bahadur, J

Bench : Single Bench

Advocate : Narinder Singh, for the Appellant; B.D. Mehra, for the Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

Shamsheer Bahadur, J.—This is a petition under Articles 226 and 227 of the Constitution of India challenging the order of the Collector, Surplus Area, Sirsa, District Hissar, by which an area of 164 bighas and 7 biswas has been taken into account in the computation of surplus area in the land owned by the third Respondent Kishan Lal. The Petitioners, Bhagirath, Mohinder and Bagrot, who are the sons of the third Respondent, that claim the land measuring 164.7 bighas in village Kharian had actually been declared by a Court decree to their property and not of the third Respondent. The court decree was by a result of the suit brought for a declaration by the three Petitioners against their father who did not contest it. On the basis of a compromise between the parties, the decree was passed on 17th of June, 1958. It is provided in Clause (c) of Section 10-A of the Punjab Security of Land Tenures Act, 1953 that:

For the purposes of determining the surplus area of any person under this section, any judgment, decree or order of a Court or other authority, obtained after the commencement of this Act and having the effect of diminishing the area of such person which could have been declared as his surplus area shall be

ignored.

This provision which was inserted by the Punjab Security of Land Tenures (Amendment and Validation) Act No. 14 of 1962, was to take effect from 15th of April, 1953. On behalf of the Petitioner it is, however, urged by Mr. Narinder Singh that Section 19-B of the Act which has also been inserted by Punjab Act No 14 of 1962, provides a saving feature as he has acquired it before 30th of July, 1958. There is no force in this argument. Section 19-B is specifically made "subject to the provisions of Section 10-A" and will not therefore, apply to a Court decree which has been obtained after the 15th of April, 1953, although it had been passed before the 30th of July, 1958. If the contention of Mr. Narinder Singh is to be accepted, the provisions of Section 10-A (c) would be rendered wholly negatory and this would clearly contravene the express intention of the legislature.

2. The other point with regard to the validity of the Amending Act is now settled by a Division Bench authority of this Court in Bhagat Gobind Singh v. State, (1963) 65 P. L. R. 105, decided on 6th of November, 1962.

3. In the result, this petition must fail and is accordingly dismissed. I would, however, leave the parties to bear their own costs.