(1990) 09 P&H CK 0051

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 9 of 1989

Bharat Bhushan — APPELLANT

Vs

State of Haryana and ors. — RESPONDENT

Date of Decision : 19-09-1990

Acts Referred:

Citation : (1990) 2 LJR 734 : (1990) PLJ 563 : (1991) 1 RRR 234 : (1991) 1 RRR 223

Hon'ble Judges : J.V.Gupta;CJ., J and R.S.Mongia, J

Advocate : Mr. Arun Jain & Mr. Sanjeev Sharma & Mr. Sarita Gupta, Advocates., Mr. M.S. Jain, Sr. Advocate,, Advocates for appearing Parties

Judgement

J.V. Gupta, C.J.

1. This will also dispose of Letters Patent Appeal No. 63 of 1989 as both these appeals arise out of the same judgment of the learned Single Judge dated 17.12.1988.

2. Prem Nath was a big landowner who died on 3.6.1976. During his life time the Special Collector vide order dated June 24, 1969 declared surplus area in his hands. Later on a penalty of 10 standard acres on the holding of landowner was imposed thereby reducing his permissible area to 20 standard acres vide order dated May 3, 1978 passed by the Special Collector, Haryana, Chandigarh, copy Annexure R1. After the death of the original landowner Prem Nath, his son Bharat Bhushan challenged the said order dated 3.5.1978 passed by the Special Collector primarily on the ground that since the surplus area was not utilised till the death of his father Prem Nath, the matter was to be decided afresh under the provisions of the Haryana Ceiling on Land Holdings Act, 1972. The said order was maintained upto the Financial Commissioner, Haryana, vide order dated August 14,1985 Annexure P3 in Civil Writ Petition No. 4451 of 1985 whereas in Civil Writ Petition No. 850 of 1986 the order of the Financial Commissioner is dated 7.1.1986 copy Annexure P2. Both these orders were challenged by Bharat Bhushan by filing two separate writ petitions which have been dismissed by the

learned Single Judge. Dissatisfied with the same, Bharat Bhushan has filed these two Letters Patent Appeals.

3. The main argument raised on behalf of the appellant is that since the area declared surplus in the hands of Prem Nath landowner was never utilised till his death on 3.6.1976, his heirs were entitled to the benefit of the provisions of the Haryana Ceiling on Land Holdings Act, 1972, and, therefore, the view taken by the learned Single Judge in this behalf was wrong and illegal. In support of his contention, he cited Darbara Singh and others v. Haryana State and others, 1989(1) Recent Revenue Reports 458, 1989 PLJ 85, Ranjit Ram v. The Financial Commissioner, Revenue Punjab and others, 1981 PLJ 259, Narain Gir and others v. The State of Haryana and others, 1986 RRR 222 (P&H) : 1986 PLJ 461. On the other hand, learned counsel for the respondents submitted that the controversy stand concluded by the Full Bench Judgment of this Court reported in Smt. Jaswant Kaur and another v. The State of Haryana and another, 1977 PLJ 230. He also cited Thath Singh and others v. The State of Haryana, 1986 RRR 180 (P&H) : 1986 PLJ 402, Shiv Narain and others v. The State of Haryana and another, 1984 RRR 432 (P&H) : 1982 PLJ 314 and Ram Singh and others v. State of Haryana and another, 1983 PLJ 102. After hearing the learned counsel for the parties and going through the case law cited at the Bar, we are of the considered view that there is no merit in these appeals.

4. As a matter of fact, the learned counsel for the appellant argued that the surplus area was declared in the hands of Prem Nath for the first time after his death on May 3, 1978 and, therefore, his heir was entitled to the benefit of the provisions of the Haryana Ceiling on Land Holdings Act, 1972. This is factually wrong. Vide order dated May 3, 1978 penalty was imposed on the big landowner though the area declared surplus during his life time vide order dated June 24, 1969. It is not disputed that the area was declared surplus in the hands of Prem Nath under the Punjab Security of Land Tenures Act, 1953, i.e. under the Punjab law. Sub section (3) of section 12 of the Haryana Ceiling on Land Holdings Act, 1972, provides that the area declared surplus or tenant''s permissible area under the Punjab law and the area declared surplus under the Pepsu law, which has not so far vested in the State Government, shall be deemed to have vested in the State Government with effect from the appointed day and the area which may be so declared under the Punjab law or Pepsu law after the appointed day shall be deemed to have vested in the State Government with effect from the date of such declaration. It is not disputed that the appointed day was January 24, 1971. The Haryana Ceiling on Land Holdings Act, 1972, came into force on December 23, 1972. Since the provisions under the Haryana Act were different from the Punjab Act, the view taken by the learned Single Judge in Darbara Singh''s case (supra) was obviously wrong in view of the Full Bench judgment in Smt. Jaswant Kaur''s case (supra). The matter is squarely covered by the judgment in Thath Singh''s case (supra) where in it has been observed in para 4 thereof that, " a bare reading of the aforesaid provisions makes it clear that under the Punjab Land Reforms Act, 1972 the surplus area declared under the Punjab Law, which

had not been utilised till the commencement of the Punjab Land Reforms Act, and the surplus area declared as such under the Punjab Land Reforms Act shall on the date on which possession thereof is taken by or on behalf of the State Government, vest in the State Government. As against this, under the Haryana Act the area declared surplus under the Punjab Law, which has not vested in the State Government shall be deemed to have vested in the State Government with effect from the appointed day i.e. 24.1.1971; in other words before 23.12.1972 when the Haryana Act was brought into force. No doubt, in view of the provisions of the Punjab Reforms Act, 1972 the Full Bench in Ranjit Ram ''s case (supra) held that a landowner whose ladn has been declared surplus under the Punjab Security of Land Tenures Act, 1953 (the Punjab Law) or under the Pepsu Tenancy and Agricultural Land Act, 1955, who has not been divested of the ownership of the surplus area before the Punjab Land Reforms Act, 1972, is entitled to select the permissible area for his family and for each of his adult sons in view of the provisions of section 4 read with section 5(1) of the Punjab Land Reforms Act."

5. In Shive Narain''s case (supra) also the matter was discussed and it was held that if the area is declared surplus under Punjab Security of Land Tenures Act and the landowner dies after coming into force of the Haryana Ceiling on Land Holdings Act which came into force on 23.12.1972, heirs of the landowner had no interest whatsoever in the land on the appointed day 24.1.1971 and they cannot maintain that surplus area in their hands which devolved on them on the death of the landowner needs to be redetermined. Similarly, in Ram Singh''s case (supra) it was held that the surplus area case stood finalised during the life time of landowner and shall stand vested in the State with effect from 24.1.1971 and no benefit will accrue to heirs of landowner under provisions of Punjab Security of Land Tenures Act.

6. Under the circumstances, there is no force in the appeals. The same fail and are dismissed with costs.

