(1991) 06 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 5333 of 1987

Chanan Singh APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 04-06-1991

Acts Referred:

Citation : (1991) PLJ 704 : (1992) 2 RRR 210

Hon'ble Judges : J.L.Gupta, J

Advocate : Mrs. Sabina, Advocate, Shri Sarjit Singh, Senior Advocate, Advocates for appearing Parties

Judgement

J.L. Gupta, J.

1. The petitioner who is an allottee of the surplus area of respondent No. 4 is aggrieved by the order of the Financial Commissioner (Appeals) by which the surplus area was reduced from 288 standard acres to 0.42 standard acres. The contention raised on behalf of the petitioner is that the Commissioner, Patiala Division exercising the powers of the State Government had rejected the appeal of respondent No. 4 viz. Balbir Singh under section 32D(3) of the Pepsu Tenancy and Agricultural Lands Act (for short ''the Act''). He submits that the powers of the State Government having been exercised by the Commissioner, the order of the Financial Commissioner, (Appeals) under Section 32D(4) of the Act was wholly illegal. He has relied upon the judgment of the Full Bench in Sukhdarshan Singh v. State of Punjab and others, 1979 R.L.R. 586 and contended that the order of the Financial Commissioner (Appeals) was wholly without jurisdiction. Their Lordships were pleased to hold as under

"A revision under section 32D(4) of the Act is not competent before the Financial Commissioner against an order of the Commissioner passed on appeal under Section 32D(3) of the Act."

2. I, however, find that the learned Financial Commissioner in the present case was approached under Section 32D and Section 39 of the Act. Section 39, inter

alia, provides as under :

"39(3). With respect to all matters dealt with under this Act the Financial Commissioner shall have the same power to call for, examine and revise the proceedings of the prescribed authority or the Assistant Collector of the First Grade or the Collector or the Commissioner as is provided in Section 84 of the Punjab Tenancy Act, 1987 (Punjab Act XVI of 1987)".

3. Mr. Sarjit Singh, learned counsel for the petitioner contends that in respect of matters included in Chapter IV only the provisions of Section 32D are applicable. He submits that Section 39(3) cannot be invoked in the present case.

4. Their Lordships in Sukhdarshan Singh''s case undoubtedly held that the Financial Commissioner has no power entertain a revision petition under section 32D(4) against an order passed by the Commissioner under Section 32D(3). Their Lordships in Sukhdarshan Singh''s case (supra) were, however, not seized of the question relating to the interpretation of Section 39. This provision appears in Chapter VI which provides for various miscellaneous matters. Not only that the remedy of appeal and revision has been provided for, but even provision for correction of clerical errors etc. has been made in Section 40. In Section 41 powers of Civil Courts have been vested in the authorities under the Act. Various other provisions have also been laid. Clause (3) of Section 39 opens with the word, "... with respect to all matters dealt with under this Act..." These words are of very wide amplitude. The Financial Commissioner under this provision has been vested with the power to call for, examine and revise the proceedings of the prescribed authority including the Commissioner in respect of all matters under the Act. These words would be rendered redundant if the contention of Mr. Sarjit Singh is accepted. I cannot persuade myself to do so and therefore of the opinion that the ratio of the Full Bench judgment is not attracted to the facts and circumstances of the present case. The impugned order having been passed by the Financial Commissioner in the exercise of the powers under Section 39 was perfectly within his jurisdiction. The contention of Mr. Sarjit Singh is, therefore, rejected.

5. Mr. Sarjit Singh has also placed reliance on the decision of Division Bench in Kandhara Singh and Maghara Singh v. Bhahan Singh, 1977 PLJ 113. On a perusal of the judgment, I find that the decision in the case was based on the peculiar facts of the case.

6. There is another aspect of the matter. An area of 2.88 standard acres was declared surplus on the basis of the classification in the Jamabandi of 195960. The revenue authorities had in fact to examine the position with reference to the record relating to the year 1956. This was not done. The learned Financial Commissioner, after obtaining a report from the Collector, Barnala, found that the total holding of the respondents came to 30.42 standard acres instead of 32.88 standard acres. This was perfectly legitimate and just action. A person cannot be illegally deprived of his property and if according to law only 2 standard acres

was liable to be declared surplus, not an inch more could be taken away. The order of the Financial Commissioner being absolutely just and fair. It will be a travesty of justice if Court were to quash this order in the exercise of its equitable jurisdiction under Article 226 of the Constitution of India. This is all the more so because no challenge was made to the order on merits by the learned counsel.

7. Accordingly, I dismiss this petition. The parties are, however, left to bear their own costs.

