

(1966) 03 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No 2987 of 1965

Gian Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 10-03-1966

Acts Referred:

Punjab Security of Land Tenures Act, 1953 — Section 19D

Citation : (1966) 03 P&H CK 0015

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Advocate : Ram Rang, for the Appellant; L.D. Kaushal, Senior Deputy Advocate-General with Mr. P.R. Jain, for the Respondents 1 to 3 and Mr. Tirath Singh Munjral, for the Respondents 4 to 9, for the Respondent

Final Decision : Allowed

Judgement

P.C. Pandit, J.—This petition under Articles 226 and 227 of the Constitution has been filed by Gian Singh and three others for quashing the order, dated 29th of October, 1965, passed by Shri A. L. Fletcher, Financial Commissioner (Revenue) Punjab, Chandigarh.

2. According to the allegations of the petitioners they were the tenants of the land owned by Prithpal Singh, respondent No. 4, in village Bir Raja Teja Singh, Tehsil Taran Taran, District Amritsar, since the year 1948. Respondent No. 4 owned about 250 standard acres in this village and in 1957, after the enforcement of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the Act), he gifted various parcels of his land to his sons, wife and daughter-in-law, respondents Nos. 5 to d. These gifts were made with a view to avoid the provisions of the Act. In 1960 proceedings for the determination of the surplus area took place and all those gifts were ignored. On 14th of February, 1961, the Collector declared certain area as surplus. Against the order of the Collector appeals were preferred in the Court of the Commissioner, Jullunder Division. In one of those appeals, it was contended before the Commissioner for

the first time that S. Punjab Singh, predecessor-in-interest of Prithpal Singh, was granted land as a gallantry award. The landowner, therefore, claimed exemption u/s 19-D of the Act. The Commissioner remanded the case to the Collector for examining this contention and the Collector on 8th of April, 1963, after considering the evidence, came to the conclusion that the land was given as a gallantry award to S. Punjab Singh in the eighteenth century and the same was exempt from the provisions of the Act u/s 19-D. The petitioners then filed an appeal before the Commissioner, but without success. They then approached the learned Financial Commissioner in revision, who too dismissed the same by the impugned order.

3. The first contention raised by the learned counsel for the petitioners is that the learned Financial Commissioner erred in law in holdings that the land in dispute was granted as a gallantry award. There is no merit in this contention. After considering the entire evidence produced in the case, the Collector, the Commissioner and the learned Financial Commissioner have given a concurrent finding of fact that this land was granted to S. Punjab Singh as a gallantry award. This finding, which is based on evidence, cannot be interfered with in these proceedings.

4. Learned counsel then contended that even if it be held that this land was given to S. Punjab Singh as a gallantry award, the same cannot be exempt from the provisions of the Act, because section 19-D would not apply to such grants. Section 19-D says -

The provisions of Act shall not apply to lands granted to any member of the Armed Forces of the Union for gallantry.

The contention of the learned counsel is that grants for gallantry to members of the Armed Forces of the Union only would be covered by this section. S. Punjab Singh was not a member of the Armed Forces of the Union, because the Union came into existence after 26th of January, 1950.

5. Admittedly, the Union of India came into existence after the enforcement of the Constitution on 26th of January, 1950. This grant for gallantry was made in favour of S. Punjab Singh long before this date.

This land could not, therefore, be said to have been granted to any member of the Armed Forces of the Union. It was contended by the learned counsel for the State that the idea of the Legislature was that even the pre-Constitution grants made for gallantry should be exempt from the provisions of the Act. But if the language of the statute is quite clear and is not capable of any other meaning, this Court cannot take into consideration the supposed intention of the Legislature. As the section reads, no other interpretation in my view is possible, except that the gallantry grants in favour of members of the Armed Forces of the Union only are exempt from the provisions of the Act. A similar view was taken by Mehar Singh J. in *S. Shivnandan Singh and others v. The Financial Commissioner, Punjab, Chandigarh Civil Writ No. 520 of 1961*, (Civil Writ No. 520

of 1961 decided on 23rd of November, 1962), wherein it was observed-

Anyhow the section (section 19-D of the act) concerns Armed Forces of the Union which came into existence in 1950 and paragraph 2 of the petition shows that the grant was made to S. Hira Singh some time before the partition in 1947. So that this argument cannot prevail.

It is also pertinent to mention that the learned Financial Commissioner himself took this very view some time back in *Didar Singh v. The State* 1963 P. L J. 41.

6. While construing section 19-D in the instant case, the learned Financial Commissioner observed thus -

As regards the question whether section 19-D should be applied to gallantry award made before the Indian Union came into existence, there is, I find, a letter from Government in the Revenue Department to all Deputy Commissioners in the State in which Deputy Commissioners were informed of Government decision that land granted to members of Armed Forces for gallantry should be exempted from the entire provisions of the Punjab Security of Land Tenures Act, 1953, and the Pepsu Tenancy and Agricultural Lands Act, 1955, irrespective of the fact whether the grants were made before or after the 26th January, 1950. This letter is No. 12158-ARI-(II)-62-5656, dated the 21st of December, 1962, from the Under Secretary to Government Punjab, Revenue Department, to all Deputy Commissioners in the State, with a copy to the Commissioners of Ambala, Patiala and Jullundur Divisions. I have looked up the file on which the decision relating to this communication was taken and find that there was also a proposal to amend the relevant provision in the Acts so that no doubts about interpretation arise. Unfortunately, the Additional Secretary, who dealt with the case, thought that an amending legislation was not quite necessary. His note dated 5th of November, 1962, on pages 45 and 46 of the relevant file, was submitted to the Revenue Minister and the Chief Minister, who decided that exemption should be given to all gallantry award land grants to members of the Armed Forces irrespective of the fact that the award was made either before or after the 26th of January, 1950. This file shows that the Ministry of Defense had also been pressing the Punjab Government to exempt all such grants as the decision taken in the present case is in conformity with the policy of Government and the wishes of the Ministry of Defense, I do not propose to interfere in revision.

7. With regard to these observations, it is enough to say that while judicially interpreting a statute, the words of which are clear and capable of only one construction, it is not open to a judicial officer to take into consideration the executive instructions or circular letters issued by the Government or the policy of the Government or the wishes of the Ministry of Defense. The intention of the Legislature has to be gathered from the words used by it in a statute. If they are capable of one construction only, it is not permissible for a Court to adopt another construction on the ground that the same would be in conformity with the policy of the Government and the wishes of the Ministry of Defense. If any

other interpretation was intended, remedy lies with the Legislature and not with the Courts.

8. It is undisputed that if the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation of the relevant statutory provision, the said conclusion can be corrected by a writ of certiorari. (See in this connection Syed Yakoob Vs. K.S. Radhakrishnan and Others,

9. In view of what I have said above, this petition succeeds and the impugned Order is quashed, but with no order as to costs.