
(2013) 12 P&H CK 0077
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 16465 of 2010

Jeet Singh

APPELLANT

Vs

Commissioner and Others

RESPONDENT

Date of Decision : 10-12-2013

Acts Referred:

Citation : (2014) 174 PLR 288

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—The petitioner has challenged orders passed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (hereinafter referred to as the "Act") dated 16.06.2010 and 23.03.2010 passed by respondent Nos. 1 and 2 respectively. In brief, the case set up by the petitioner is that his father Late Shri Natha S/o Kola was allotted land measuring 52 Kanals 18 Marlas, situated in village Khol Fatehgarh, Tehsil Jagadhri, District Yamuna Nagar, in the year 1963 at the rate of Rs. 1/- Lagan per acre per year. His father died in the year 1986 and name of the petitioner is recorded in the revenue record. The State Government issued a policy prior to the year 1992 for giving proprietary rights to the Scheduled Castes. In view thereof, the petitioner applied on 18.09.1992, which was recommended by the Deputy Commissioner, Yamuna Nagar to the Tehsildar (Sales) for allotment. However, before the land could be allotted to the petitioner, respondent No. 3 auctioned the land in dispute in the month of September 1994, against which the petitioner filed a suit for declaration and permanent injunction. The plaint was returned by the Civil Judge (Senior Division), Jagadhri on 01.02.1996 on the ground that the Civil Court had no jurisdiction, against which the petitioner filed appeal which was dismissed on 02.05.1998. However, in the Regular Second Appeal, the matter was remanded back by this Court for decision afresh vide its order dated 21.12.1999. Ultimately, the suit was partly decreed on 10.09.2003 to the effect that the

petitioner was in possession of the suit land and the defendants were restrained from dispossessing the petitioner from the suit land forcibly except in due course of law. The said decree of the Civil Court was upheld in appeal vide order dated 12.08.2004 but it was held that the petitioner is not the owner. The Regular Second Appeal filed before this Court was dismissed on 09.02.2006. The petitioner also filed revision before the Joint Secretary (Rehabilitation)-cum-Settlement Commissioner, Haryana against the auction but the said revision petition was dismissed on 13.05.1996.

2. Respondent No. 3 filed a petition u/s 5 of the Act for eviction of the petitioner from the land in dispute which was allowed on 23.03.2010 and the appeal filed by the petitioner was dismissed on 16.06.2010, which are the subject matter for consideration in the present writ petition.

3. Counsel for the petitioner has submitted that even if the petitioner has been ordered to be evicted in terms of the impugned orders, he is entitled to purchase the land in dispute in view of the policy of the Government, whereas counsel for the respondents have submitted that vide instructions dated 10.11.1981, the occupants, who were still in continuous cultivating possession of inferior evacuee land since Kharif, 1975, after the expiry of 10 years of lease period, were allowed to apply up to 30.06.1983 for getting the land transferred in their favour at the price fixed by the Government. The last date for submission of the applications was extended and finally, vide instructions dated 20.05.1992, the last date for submission of the applications was fixed as 11.07.1992. The petitioner missed the said opportunity as he did not apply within the stipulated period i.e. on or before 11.07.1992 and forfeited his right of consideration for getting the land transferred under the aforesaid instructions. It is further submitted that the land in dispute was auctioned in two lots to Gaurav and Santosh Kumari on 13.12.1994 and it was confirmed by the Settlement Officer (Sales) on 30.01.1995. The petitioner challenged the aforesaid auction and confirmation order by way of revision before the Joint Secretary (Rehabilitation)-cum-Settlement Officer, Haryana, which was dismissed on 13.05.1996 on the ground that the auctions were conducted in pursuance to the orders passed by the Civil Court, the order dated 28.03.1994 passed by the Tehsildar Sales, Ambala was not challenged before the Appellate Authority, no objections were raised against the auctions and even the revisions petitions were filed on 31.07.1995 and 20.11.1995, i.e. much after the auction and its confirmation. The orders passed by the Tehsildar Sales, Ambala, dated 28.03.1994 and the order dated 30.01.1995 and 13.05.1996 were not challenged and attained finality. It is further submitted that the land in dispute is in possession of the petitioner as unauthorized occupant who had already been ordered to be evicted in the proceedings carried out under the Act in terms of the order passed by Civil Court who had protected his possession till he is proceeded in accordance with law. In the end, it is submitted that the policy dated 01.11.2001, relied upon by the counsel for the petitioner, has already been held to be unconstitutional by this Court in C.W.P. No. 2272 of 2003 titled as "Dalmer Singh v. State of Haryana"

decided on 22.11.2010. I have heard learned counsel for the parties and after perusal of the record, it has been found that the petitioner could not prove his ownership over the land in dispute before the Civil Court when he had filed the suit for declaration and permanent injunction. However, the Civil Court only protected his possession till he is proceeded against in accordance with law. Consequently, a petition u/s 5 of the Act was filed for the purpose of seeking eviction of the petitioner from the land in dispute, which comes within the definition of Section 2(e) of the Act, and has been allowed. Moreover, the land in dispute has already been auctioned which has been confirmed in favour of the highest bidder and the petitioner has unsuccessfully challenged the auction before the Competent Court. Lastly, it has also been found that father of the petitioner did not apply for purchase of the land in dispute in terms of the earlier policy instructions within the stipulated time and forfeited his right and as far as the petitioner is concerned, relying upon the policy dated 01.11.2001, cannot get any advantage because the said policy is held to be unconstitutional in Dalmer Singh's case (supra).

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.