
(1988) 05 P&H CK 0065
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1925 of 1983

Mala Singh

APPELLANT

Vs

Financial Commissioner, Haryana and ors.

RESPONDENT

Date of Decision : 26-05-1988

Acts Referred:

Citation : (1988) 2 ILR (P&H) 109 : (1988) PLJ 378 : (1988) 2 RRR 118 : (1988) 2 RRR 28

Hon'ble Judges : S.P.Goya, J and A.L.Bahri, J

Advocate : For the Petitioner Mr. P.N. Makani, Advocate., Advocates for appearing Parties

Judgement

S.P. Goyakl, J.

1. The petitioner filed an application on June 20, 1972, under Section 18 of the Punjab Security of Land Tenures Act, 1953 (hereinafter called the Act) for acquiring the proprietary right in the land under his tenancy alleging that his landlord Kishan Datt was a big landowner and the area in his possession was within his permissible limits thereto, the heirs of Kishan Datt, who died on September 4, 1971, had moved an application in Form K1 on November 23, 1971 for ejectment or the tenant claiming themselves to be small landowners. Initially, the Assistant Collector allowed the purchase application of the petitioner on June 11, 1975 but its order was set aside by the Collector on December 1, 1975 and the case remanded for fresh decision. The purchase application was again accepted and the application for ejectment dismissed by the Assistant Collector Ist Grade by a common order dated June 18, 1977 `Annexure P1 The appeal filed against his order having been dismissed by the Collector. the landowners went in revision before the Commissioner who recommended the same to the Financial Commissioner with the recommendation that the purchase application be dismissed and the ejectment case remanded for fresh decision The Financial Commissioner agreed with the recommendation and allowed the revision petition vide order dated November 11, 1982 Annexure P4. Aggrieved

thereby, the tenant has filed this petition under Article 226 of the Constitution for quashing the said order.

2. To assail the impugned order, the learned counsel for the petitioner contended that the area under the tenancy of the petitioner was left as his permissible area and for that reason was not declared surplus area. The petitioner thus being an old tenant of Kishan Datt, a big landowne was entitled to purchase it under Section 19 of the Act. If the original landowner Kishan Datt was alive, the right of the petitioner would have been unassailable. As the chance would have it. Kishan Datt died before the filing of the application and his estate devolved on his heirs immediately on his death. So, it is the status of the heirs which was to be taken into consideration while disposing of the application of the petitioner because Section 16 of the Act protects the right of the tenant to purchase the land under his tenancy against all transfers and dispositions of land effected after February 1, 1985, except the one by inheritance or acquisition, by the State Government. The devolution of the land by inheritance on the heirs of Kishan Datt, therefore, was not hit by the provisions of Section 16, with the result that the tenant could only succeed if the heirs of the original owner were big landowners. None of the heirs of the original owner being big landowner, the purchase application was rightly dismissed.

3. No other point having bean urged, this petition fails and is hereby dismissed without any order as to costs.