
(1994) 05 P&H CK 0089
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2969 of 1983

Mohinder Pal Kaur and Another	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 12-05-1994

Acts Referred:

Punjab Land Reforms Act, 1972 — Section 2(5), 4, 7
Punjab Land Reforms Rules, 1973 — Rule 7

Citation : (1994) 108 PLR 296

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : I.S. Balhara, for the Appellant; U.S. Sahni, for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Garg, J.

1. Petitioners in this writ petition under Article 226 of the Constitution of India seek issuance of a writ of certiorari for quashing the order dated April 10, 1981, Annexure P-2-passed by the Collector Agrarian, Ludhiana. The facts giving rise to this petition may be noticed in brief.

2. Petitioner No. 1, Mohinder Pal kaur is the wife of Gurdial Singh whereas petitioner No. 2 Mandeep Singh is minor son of said Gurdial Singh. Gurdial Singh was a big landowner. Land in hands of Gurdial Singh to the extent of 3.42 Hectares was declared surplus by the Collector Agrarian on February 27, 1976. Appeal against the order of the Collector Agrarian was accepted by the Commissioner and the matter remitted to the Collector for decision afresh, with the following directions:-

- (i) The wife of the landowner be given an opportunity of being heard.
- (ii) The transferees and other interested parties be given an opportunity of being heard to see the nature and character of the transfers.

(iii) Tenants who were in possession of this land on 24th January, 1971 be also heard and the area held by them on the appointed day be excluded from the holding of the landowner.

3. On remand, the Collector Agrarian again took up the matter and, as noticed already, decided the surplus area case of Gurdial Singh by order dated April 10, 1981, Annexure P-2. Aggrieved by the said order, the petitioners have filed the present writ petition.

4. The relief sought in the writ petition has been resisted by the respondents by filing written statement.

5. The grouse of the petitioners is that the directions given by the learned Commissioner while remanding the case to the learned Collector had not been followed by the Collector while deciding the matter, in as much as the matter was decided without impleading the legal heirs of Kishan Kaur who died on February 15, 1981, the petitioners were not afforded an opportunity of being heard and that the order passed against deceased Kishan Kaur was void abinitio.

6. I have heard the learned counsel for the parties and considered the matter. The grouse of the petitioners that they were not afforded an opportunity of being heard by the Collector Agrarian as directed by the learned Commissioner has no basis. Petitioner No. 1 is none else but the wife of the big landowner. Gurdial Singh, Gurdial Singh was represented before the Collector. In the written statement filed on behalf of the Collector, it has been specifically stated that the petitioners had been summoned on a number of occasions and ultimately, they, were served by affixation of notices on the door of their house and even then they did not appear. In the circumstances, it cannot be said that the petitioners were not afforded an opportunity of being heard. The interest of the petitioners, in fact, was sufficiently represented by Gurdial Singh, husband of petitioner No. 1, or the attorney of Gurdial Singh who was actively participating in the declaration of surplus area case. Even otherwise, I find that petitioner No. 1 who is wife of big landowner, a member of the family is not entitled to a hearing as a matter of right. It thus, cannot be said that no opportunity of being heard was afforded to the petitioner before passing the impugned order. Annexure P-2.

7. As regards second ground, it may be noticed, that Kishan Kaur is again none eke but the mother of Gurdial Singh, the big landowner. Gurdial Singh had sold land measuring 125 Kanals 12 Marlas to Kishan Kaur, his mother through a registered sale deed dated November 18, 1971, after the appointed date. Learned Collector came to the conclusion that no consideration in respect of the said Sale had passed and therefore the sale made in the favour of Kishan Kaur was not a bona fide sale. Thus, the said sale was ignored by the Collector. As regards this grouse, it is only Kishan Kaur who could have grievance against the order of the learned Collector. The petitioners cannot espouse the cause of Kishan Kaur and make grievance in that behalf. Kishan Kaur has not till today challenged the order of the Collector, on any ground whatsoever. She had been

served by the Collector before passing the order and had been afforded an opportunity of being heard, but none came present on her behalf before the Collector despite service. In the circumstances, I am of the view that the petitioners have no locus standi to impugn the order Annexure P-2 on behalf of Kishan Kaur.

8. Gurdial Singh had not challenged the order Annexure P-2 whereby land measuring 1.54 Hectares of first quality was declared surplus in his hand. The petitioners being the wife and son of Gurdial Singh have no locus standi to challenge the impugned order Annexure P-2 during his life time. It would be seen that they have filed this application in their own right and not as legal representatives of heirs of said Gurdial Singh. The order cannot be held to be void and illegal on any ground whatsoever. Even if Kishan Kaur was dead, her son namely, Gurdial Singh was already on the record and her estate was being sufficiently represented by him for all intents and purposes.

9. There is another aspect of the matter as well. The land which had been declared surplus vide order Annexure P-2 has already been allotted to the eligible persons and they are in possession thereof since June 15, 1983.

10. For the reasons recorded above, this writ petition fails and is hereby dismissed. There shall, however, no order as to costs.