(1981) 07 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1641 of 1970

Mohinder Singh — APPELLANT

Vs

The Collector, Karnal and Others — RESPONDENT

Date of Decision : 16-07-1981

Acts Referred:
Punjab Land Revenue Act, 1887 — Section 3(8)

Citation : AIR 1982 P&H 43

Hon'ble Judges : S.C. Mital, J

Bench : Single Bench

Judgement

1. The salient facts of this case are that according to the Collector, Karnal, Mohinder Singh Lambardar recovered Rupees 99,736.42 as land revenue but he deposited Rs. 90,292.34 in the Government treasury. Thus, Rs. 9,444.08 were outstanding against him. For the recovery thereof, Mohinder Singh was proceeded against under the provisions of the Punjab Land Revenue Act as applicable to Haryana. The Tahsildar, Revenue, Karnal, issued warrant of his arrest. Feeling aggrieved, Mohinder Singh filed this writ petition challenging the said mode of recovery.

2. Mohinder Singh solely relied on the definition of "defaulter" given in S. 3(8) of the said Act, at the time of the institution of the writ petition. It reads:--

" "defaulter" means a person liable for an arrear of land revenue, and includes a person who is responsible as surety for the payment of the arrears."

Reliance was then placed on Sarup Singh v. Collector, Hissar 1970 Cur LJ 431 (Punj), wherein B. R. Tuli, J. laid down :--

"A Lambardar while collecting the land revenue acts as an agent of the State Government and he can be proceeded with civilly or criminally if he has collected the land revenue but has not deposited the same in the Government treasury, but he cannot be proceeded with as a defaulter under the Punjab Land Revenue Act or the Rules framed thereunder."

Similarly, a Bench of this Court consisting of Harbans Singh. C. J. and Gurdev Singh, J. in Gurmukh Singh v. State of Punjab 1971 P&H LJ 166 held that by no stretch of language the word "defaulter" as defined in S. 3 (8) of the Punjab Land Revenue Act can include a person who has misappropriated and embezzled Government money or the money that he had collected on behalf of the Government.

3. The two authorities cited above would have fully covered this case, but for the fact, as pointed out by the learned Deputy Advocate General, Haryana, that Deputy Advocate General, Haryana, that during the pendency of this writ petition, the definition of "defaulter" was amended by the Punjab Land Revenue (Haryana Amendment) Act No. 45 of 1973. The amendment reads:-

" ''defaulter'' means a person liable for an arrear of land revenue or any tax in lieu thereof and includes-

(i) a person who is respondents as surely for the payment of the arrear; and

(ii) a headman or any other person who has collected the land revenue or any tax in lieu thereof but has not deposited the same into the Government Treasury."

In view of the abovesaid amendment of the expression "defaulter" learned counsel for the petitioner conceded that the above quoted rulings do not now hold good any they are of no avail to the petitioner and that he has become a "defaulter". It follow, therefore, that the petitioner can be arrested in the recovery proceedings in question.

4. Whether Rs. 9,444.08 are actually due from the petitioner or not is a disputed question of fact, which by reason of the intricacies of accounts relating to the huge amount of Rs. 99.736.42, I decline to go into in the exercise of writ jurisdiction. The learned senior Deputy Advocate General has very fairly contended that he would intimate the authority concerned that the petitioner be not arrested unless and until he is given an opportunity to inspect the relevant record to satisfy the authority that he is not a "defaulter."

5. In the result, this petition is hereby dismissed. No. order as to costs.

6. Petition dismissed.

