(1968) 01 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 1564 of 1964

Neta Ram APPELLANT

Vs

State of Punjab and others RESPONDENT

Date of Decision : 25-01-1968

Acts Referred:
Pepsu Tenancy and Agricultural Lands Act, 1955 — Section 32FF

Citation : (1968) 01 P&H CK 0024

Hon'ble Judges : P.D. Sharma, J

Bench : Single Bench

Advocate : C.L. Lakhanpal, for the Appellant; Ashok Bhan, and Ch. Rup Chand, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Sharma, J.—Neta Ram in his writ petition against the State of Punjab and 22 others has challenged the validity of an order passed by the Financial Commissioner Development Punjab on 4th November, 1963, annexure ''C'' by which 1371/2 Ordinary Acres out of his holdings were declared as surplus under the provisions of the Pepsu Tenancy and Agricultural Lands Act, 1955, hereinafter referred to as the Act. The petitioner as a displaced person from West Pakistan was allotted 73.9 Standard Acres of evacuee land in village Gulzarpara, district Patiala. Subsequently proceedings under the Act were initiated against him by the Collector Agrarian respondent No 3, for determining the surplus area. He was left with 100 acres of land and the rest was declared as surplus. His appeal against the above was dismissed by the Commissioner, Patiala Division, respondent No. 2 and the revision petition also met the same fate. The petitioner alleged that the order annexure ''C'' was illegal, void and without jurisdiction amongst others also on the following grounds:

(i) That the value of the property, according to the Agrarian Reforms Laws, is 486 Standard Acres; while according to the Rehabilitation Department, it is 739 Standard Acres. The respondents should have deducted the surplus area of the petitioner according to the valuation fixed by their own Department and not according to the value fixed by the Rehabilitation Department;

(ii) That the area alienated by the petitioner to landless people should not have been included in the surplus area of the petitioner :

(iii) That the allotment to the petitioner has been made in standard acres, but deductions are being made from him in terms of ordinary acres with the result that the petitioner has been left with only 28 standard acres of land and not. 40 (forty) standard acres as allowed to him under the law:

(iv) That 49 standard acres and 3/4 units, equivalent to 942 (nine hundred and forty two) Bighas is Banjar Qadim, and therefore it is not agricultural land under the authorities as mentioned above, and this area should have been ignored while calculating the surplus area of the petitioner. It this area is excluded, the petitioner will not be left with any surplus area whatsoever " Amarjit Singh, Under Secretary to Government Punjab Revenue Department on behalf of respondents 1 to in his affidavit explained that the petitioner transferred part of his holdings after 21st August, 1956 and so u/s 32-FF of the Act those transfers were rightly ignored, that u/s 32-N of the Act the area of Banjar land and Banjar Qadim also had to be included while determining the surplus area and that the petitioner''s land was correctly evaluated according to law. He went on to say that in terms of section 3(1) (a) of the Act, the petitioner was allowed the permissible limit of 100 Acres of land. Respondents 5 to 23 who had been allotted the area declared as surplus supported the impugned order.

2. There is no doubt that according to section 32-N of the Act, land includes Banjar land save as otherwise provided. The Collector, respondent No. 3, therefore, was correct in taking into consideration the Banjar land owned by the petitioner while determining the surplus area. The respondents had categorically stated that the petitioner''s land was evaluated according to law. The petitioner however attacked the valuation on the ground that respondent No. 3 took into consideration the area in Standard Acres as determined by the Rehabilitation Department while he should have found out the Standard Acres of his area while keeping in view the test laid down in the rules framed under the Act. I have gone through the grounds of revision filed by the petitioner in the Court of the Financial Commissioner. There he no where stated that his land had been evaluated in Standard Acres according to the tests laid down by the Rehabilitation Department and not hose prescribed in the rules framed under the Act. What he urged before him was that valuation for declaring the area surplus had been done in accordance with rule 5 framed under the Act which was beyond the scope of section 2(1) of the Act and thus ultra vires and in effective. He did not raise this plea in the present petition. It was, therefore, not proper for him to urge at this stage that valuation of his land in Standard Acres 1 ad not been properly made by respondent No. 3. The petitioner did alienate a part of his holdings but this was done after 21st August, 1956, and as such the same could be ignored u/s 32-FF of the Act.

3. The only point that remains to be determined is whether the petitioner should have been left with 100 Ordinary Acres of land or 40 Standard Acres In this connection, reference may be made to section 3(1)(a) of the Act which runs as under:

Permissible limit for the purposes of this Act means 30 Standard Acres of land and where such 0 Standard Acres on being converted into Ordinary Acres exceed 80 Acres, such eighty Acres :

Provided that in the case of an allottee,-

(a) who has been allotted land exceeding 40 Standard Acres, the permissible limit shall be forty Standard Acres and where such forty Standard Acres on being converted into Ordinary Acres exceed one hundred Acres, such one hundred Acres.

A cursory reading of the above provision of law will show that the petitioner could have retained only 100 Ordinary Acres as the land held by him. exceeded 40 Standard Acres which on being converted into Ordinary Acres exceeded 100 Acres.

4. The Learned Counsel for the petitioner, however, maintained that the petitioner should have been left with 40 Standard Acres of land and in support of his argument relied on Khan Chand v. State of Punjab (1966) 68 P.L.K. 543 which dealt with a case under provisos to sub-section (3) of section 2 of the Punjab Security of Land Tenures Act. In my opinion the rule laid down therein does not apply to the present case because the phraseology of the provisos to section 2(3) of the Punjab Security of Land Tenures Act is not the same as of section 3(1)(a) of the Act Respondents Nos. 1 to 3 in view of the explicit and mandatory provisions made in section 3(i)(a) of the Act very correctly allowed the petitioner to retain 100 Ordinary Acres only.

5. The writ petition fails and is dismissed. There will be no order as to costs.