
(1997) 04 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3137 of 1982

Parma Nand

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 30-04-1997

Acts Referred:

Citation : (1997) 4 ICC 889 : (1998) 4 LLR 597 : (1997) 2 PLJ 654 : (1997) 3 RCR(Civil) 663

Hon'ble Judges : H.S.Bedi, J

Advocate : Mr. R.S. Mittal, Sr. Advocate with Mrs. Arti Gupta, AdvocateFor the Respondents: Mr. S.K. Hooda, AAG, Haryana, Advocates for appearing Parties

Judgement

H. S. Bedi, J. (Oral)

1. The petitioners the sons of Gopala were owners of 33 standard acres 3 units of land including one acre of Banjar Qadim situated in village Jhanjholi, District Sonapat. Consolidation of holdings took place in this village in the year 195758. The petitioner's father was allotted 31 standard acres and 2 units including 3 acres of Banjar Qadim. It is the case of the petitioners that the Banjar Qadim land was in Rectangle No. 12, Killas No. 15, 16 and 25. Vide order dated 11.2.1960, the Collector Agrarian, declared 3 standard acres and 3 units of area as surplus, holding that Gopala was entitled to 30 standard acres of land only as on 15.4.1953, the relevant date under the Punjab Security of Land Tenure Act, 1953 hereinafter called the `Act". It appears that when Gopala received notice with regard to his surplus area case, he made an application for review of the order dated 11.2.1960 vide application dated 21.11.1977 Ex.P1 to the petition, making a grievance that while making the order dated 11th February, 1960, the Collector had not given him the benefit of the reduced land given to him in the consolidation of holdings whereby his area had been reduced by two standard acres; that killa Nos. 15 and 16 of Rectangle No. 12 did not belong to him and belonged to one Ram Saroop and Bhola and had been wrongly included in his surplus area and that one standard acre and 2 unit of Banjar Qadim land should

have been excluded, while determining his surplus area. Vide Annexure P2 dated 27.12.1978, the S.D.O (Civil), Sonapat, recommended the case for review under Section 24 of the Act to the Financial Commissioner, Haryana, on the first of the two grounds. It appears that yet another application seeking review of the order dated 11.2.1960 was again made to the Collector vide Annexure P3 at the instance of Sube Singh, who had purchased Killa No. 15 and 16 in Rectangle No. 12 from Ram Saroop aforementioned. The Financial Commissioner, however, vide Annexure P4 declined to sanction review with the observations that the Collector had not recommended any benefit to the landowner on account of consolidation and as the owners of Khasra No. 15 and 16 of Rectangle No. 12 i.e. Ram Sarup and Bhola had not made a grievance before the Collector, the petitioner could not make a grievance on their behalf. It is against this order Annexure P4 that the present petition has been filed.

2. A reply has been filed in response to the petition and it has been stated that the order dated 11.2.1960 was fully justified, as the relevant date i.e. 15.4.1953 was to be taken into account and that any subsequent reduction in the area on account of Consolidation of Holdings would not have effect on the area in the hands of the landowner.

3. Mr. R. S. Mittal, the learned Senior Counsel appearing for the petitioners has urged that the Financial Commissioner was wrong in rejecting the recommendation and has relied on , in which this Court considered the scope of Section 24 of the Act and held that where Consolidation of Holdings had taken place after the declaration of the surplus area, the Collector was required to redetermine the area in the hands of the landowners. To my mind, this judgment fully covers the case in favour of the petitioners.

4. Mr. Mittal has then argued that the finding of the Financial Commissioner that even if some area belonging to the other landowners was included in the surplus area of the petitioner, no prejudice had been suffered by him, was also incorrect. There is merit in this argument as well. It cannot be denied that the area of some other landowners wrongly added would increase the land holding of that landowners with the result that a larger area would be liable to be declared surplus.

5. It has finally been argued by Mr. Mittal that in addition, the petitioner was entitled to claim exclusion of the Banjar Qadim area in his possession in the light of the judgment of the Supreme Court in Rampal Singh v. Dy. I.G. of Police (P.A.C.) and another, 1969(1) L.L.J 1, in which it has been held that Banjar Qadim land was not land in terms of the Act and could not be taken into account while determining the permissible or surplus area of the land owners.

6. Mr. Hooda, the learned AAG, Haryana, appearing on behalf of the respondent has, however, urged that the recommendation with regard to this point had not been made by the Collector and as such, it was not open to the petitioners to claim it now. This argument has to be repelled in the light of the judgment, in

Rampal Singh"s case (supra).

This petition is, accordingly, allowed, the order Annexure P4 is quashed and the Collector is directed to reconsider the case of the petitioners according to law. The parties to appear before the Collector, Sonapat, on 18.11.1997. No costs.