
(1983) 03 P&H CK 0066
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4511 of 1976

Sampuran Singh	Vs	APPELLANT
Collector Kurukshetra and others		RESPONDENT

Date of Decision : 23-03-1983

Acts Referred:

Citation : (1983) PLJ 384 : (1984) RRR 480

Hon'ble Judges : S.S.Sodhi, J

Advocate : Roshan Lal Sharma, Advocate., Advocates for appearing Parties

Judgement

S.S. Sodhi, J.

1. The controversy sought to be raised here relates to land which originally belonged to Ram Sarup respondent No. 2. In 1951, the land being `Banjar, it came to be acquired under the East Punjab Utilization of Lands Act, 1949 (hereinafter referred to as the Act). It was then given on a seven years lease with onehalf share therein each to one Bhagat Ram and Devitia the father of respondent No. 2. This happened in 1952. Sometime later Isher Singh and Pritam Singh the predecessors of some of the present petitioners were allowed to join Bhagat Ram as colessees. According to the petitioners, however, Dalip Singh the predecessor of some of the other petitioners had also been so permitted to join as colessee, but this has not been admitted in the return filed on behalf of the Collector. At any rate this is not an aspect which has any material bearing on the merits of the questions raised.

2. The period of the lease was subsequently extended from seven to twenty years. The period of the lease was thus to expire in 1972.

3. Ram Sarup, respondent No. 2, was a big landowner and by virtue thereof proceedings were initiated against him relating to the determination of his surplus area under the provisions of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the `Land Tenures Act"). The Collector Agrarian by his order of July 8, 1960 declared 33.2 acres of land held by him to be

surplus. On review the Special Collector, Chandigarh by his order of December 6, 1961 ordered that the area acquired under the Act be not taken into account until after the expiry of the period of lease. The revision petition filed against this order was dismissed by the Commissioner, Ambala Division, by his order of February 10, 1962. It was thereafter, that the Collector Agrarian, Kaithal by his order of April 3, 1963 declared 3.55 standard acres equal to 17 ordinary acres as surplus. Included in the land so declared surplus was some of the land which was held by the petitioners as lessees under the Act.

4. Sometime later, a suit was filed against the landowner, respondent Ram Sarup by his wife Kamla Devi, respondent No. 3, claiming herself to be the owner of the land concerned. This suit was decreed on April 21, 1967. The land thereafter came to be mutated in her name on March 31, 1969. This land was then sold by respondent Kamla Devi to the petitioners by four separate sale deeds which were registered on July 3, 1969, and December 20, 1972.

5. In the meanwhile, the period of the lease of the petitioners came to an end in 1972 and the Collector passed an order regarding their ejection from this land. This order was challenged in this Court by the petitioners and others in Civil Writ No. 2216 of 1971 which was dismissed on February 23, 1972.

6. It is in above background that the petitioners filed the present Writ Petition seeking to challenge thereby the order passed by the Collector Agrarian on April 3, 1963 declaring 3.55 standard acres of land belonging to respondent Ram Sarup as surplus under the Land Tenures Act. It was the contention of Mr. R.L.Sharma, appearing for the petitioners that the impugned order was vitiated on the ground that it had been passed without any opportunity being afforded to the tenants on the land concerned being heard. The argument being that the status of the petitioners on this land was that of tenant as defined in the Land Tenures Act. In support of his contention reference was made to *Dhaunkal v. Man Kauri and another*, 1970, P.L.J. 402, for the proposition that an order declaring land surplus without hearing the tenant on the land concerned was voidable at the instance of the tenant.

7. It would be seen that the contention of Mr. R.L. Sharma is founded upon the premises that the petitioners held the land concerned as tenants. This is clearly a fallacious stand. An allottee of land under the Act, it is now settled, is not a tenant in terms of the Land Tenures Act. This was specifically so held by a Division Bench of this Court in *The Karnal Cooperative Farmers Society Ltd., Pehowa v. State of Haryana*, 1972 PLJ 172, wherein in dealing with the provisions of the Act, it was observed that "the intention of the Legislature was never to create a relationship of landlord and tenant between the Collector who had the authority to grant lease and the person to whom the lease was granted as envisaged under the Tenancy Act or the Security of Land Tenures Act."

8. Further in dealing with this matter it also deserves note that the contention that a lessee who had been allotted land under the Act could be ejected only

under the provisions of the Land Tenures Act was specifically repelled in the authority referred to above. It follows, therefore, that the petitioners not being tenants under the Land Tenures Act cannot be heard to question the validity of the impugned order on the ground that it had been passed without notice to them.

9. An attempt was next made by the counsel for the petitioners to contend that the impugned order of April 3, 1963, was void inasmuch as the land declared surplus was Banjar Kadim and such land did not fall within the definition of the "land" as given in the Land Tenures Act. This again is a contention wholly devoid of merit. The petitioners not being tenants clearly have no locus standi to question the impugned order on any such ground. Even otherwise, the factual basis upon which such an argument could be based is not established. It will be recalled that the land came to be allotted on lease to the predecessors in interest of the petitioners in 1952, whereas the relevant date for this purpose was April 15, 1953. The material on record does not warrant the finding that on this date the land was Banjar Kadim".

10. This Writ Petition is thus wholly without merit and the petitioners are consequently not entitled to any relief claimed. The Writ Petition is accordingly dismissed. In the circumstances, however, there will be no order as to costs.