
(2007) 05 P&H CK 0003
In the Punjab And Haryana At Chandigarh

State of Haryana

APPELLANT

Vs

Lekh Ram @ Lekha

RESPONDENT

Date of Decision : 23-05-2007

Acts Referred:

Citation : (2008) 149 PLR 374 : (2007) 5 RCR(Civil) 804

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Permod Kohli, J.—This Regular Second Appeal is preferred against the concurrent findings of fact recorded by both the learned Courts below.

2. Briefly stated, the facts as emerged from the record are that an order was passed by the Prescribed Authority, Karnal, dated 12.01.1978 under the Haryana Ceiling on Land Holdings Act, 1972, declaring the land as surplus. An appeal preferred by the plaintiff-respondent before the Collector, Karnal, also came to be dismissed vide order dated 28.07.1978 and a Revision therefrom before, the Commissioner, Ambala Division, Ambala, also resulted in dismissal vide order dated 08.07.1980.

3. Aggrieved of these orders, respondent herein, filed a suit for declaration declaring these orders as null and void, in the Court of learned Sub Judge, IInd Class, Karnal. On the pleadings of the parties, as many as six issues were framed. However, the relevant issue is issue No. 1 which related to the validity of the orders passed by the authorities under the provisions of Haryana Ceiling on Land Holdings Act, 1972.

4. The case of the plaintiff-respondent before the learned trial Court was that the authorities have not considered the affidavit filed by him regarding the correction in the declaration form earlier filed by him and without taking into consideration the family strength of the plaintiff, the impugned orders have been passed declaring the suit land as surplus.

5. It is the admitted case of the parties that the plaintiff-respondent filed a declaration form on 06.07.1976 before the Prescribed Authority. Thereafter, he filed an affidavit on 17.11.1977. It was stated in the affidavit that due to inadvertence he could not include his two daughters, namely, Savitri Devi @ Santra Devi and Bhoti @ Om Pati and one son, namely, Jagat Singh in the declaration form and sought correction of the entry in the declaration form as regards the family strength is concerned. It is also not in dispute that the Authorities under the Act did not consider this affidavit and proceeded to decide the claim of the plaintiff-respondent on the basis of the original declaration form. The learned trial Court observed that the names of two daughters were wrongly excluded from the declaration form as on the crucial date, two daughters were unmarried. It has also been observed that a son, namely, Jagat Singh, was born to the plaintiff-respondent on 01.11.1977 i.e., between the date of passing of the Act and its implementation/enforcement. The learned trial Court came to the conclusion that these family members should have been included in the family strength of the plaintiff-respondent. The trial Court has also rendered a finding that even when the affidavit was filed and the inquiry as conducted, no opportunity was given to the plaintiff-respondent to lead any evidence to prove his actual family strength and also his claim mentioned in the affidavit. Based upon these facts, the trial Court passed the decree and declared the orders passed by the authorities declaring the land of the plaintiff-respondent as surplus, as null and void and not binding upon the plaintiff-respondent.

6. The learned Lower Appellate Court concurred with the findings of the trial Court and upheld the judgment and decree passed by the learned trial Court.

I have heard the learned Counsel for the parties at length and perused the judgments impugned in this Regular Second Appeal.

7. Admittedly, no substantial question of law was framed when the appeal was admitted to hearing. As a matter of fact, learned Counsel for the appellant has not been able to show that any substantial question of law arises in the present appeal. Both the judgments are based upon concurrent findings of fact. There is no scope for interfere in this appeal.

8. In view of the above, I find no merit in this appeal and the same is hereby dismissed with no order as to costs.