(1981) 07 P&H CK 0018

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4084 of 1970

Swaran Singh APPELLANT

Vs

State of Punjab and others RESPONDENT

Date of Decision : 27-07-1981

Acts Referred:

Citation : (1981) PLJ 436 : (1986) RRR 435

Hon'ble Judges : M.M.Punchhi, J

Advocate : Mr. H.S. Mattewal, Advocate., Advocates for appearing Parties

Judgement

M.M. Punchhi, J. (Oral)

1. Sunder Singh, the Lambardar of village Sangal, tehsil Tarn Taran, district Amritsar, died in the year 1968. For some period prior to his death, the land revenue due on the estate was sought to be recovered by the attachment and sale of his land in the year 1969 when it had come to be inherited by the petitioner Swaran Singh. The arrears were conceded to be Rs. 2,415/ for which 10 acres of land was attached and sold on 14.8.1969 by the Collector, Amritsar, fetching Rs. 2,415/. The petitioner filed objections under section 91 of the Punjab Land Revenue Act before the Commissioner, Jullundur. The learned Commissioner passed an interim order allowing the petitioner to deposit the said sum of Rs. 2,414/ by 16.2.1970. Due to some confusion, the petitioner could not deposit the said sum by the said date. Thus on 16.2.1970 the objectionpetition was dismissed in default. The restoration application filed therein was also dismissed on the ground that sufficient cause had not been made for restoration of the objection petition. The petitioner''s appeal before the Financial Commissioner was dismissed on 27.11.1970. The principal plea of the petitioner that his father as a Lambardar was not a defaulter within the meaning of Punjab Land Revenue Act and thus his land was not liable to attachment or sale was ignored by the learned Financial Commissioner. Judgment of this Court in Sarup Singh v. The Collector, Hissar and others, 1970 Current Law Journal 431, was also ignored. It is in these circumstances that the petitioner has approached this Court under Articles

226/227 of the Constitution of India to get quashed the orders of the Commissioner as also of the Financial Commissioner.

2. The Motion Bench while admitting the petition granted stay of dispossession to the petitioner subject to depositing a sum of Rs. 2,415/ with the Collector within two weeks from the date thereof, that is, 17.12.1970. The learned counsel for the petitioner states at the bar that such sum was deposited within time.

3. The broad facts are not disputed by the respondentCollector. According to him, the sum of Rs. 2,412.25 on account of land revenue etc. was recoverable from Sunder Singh deceased Lambardar for the period 195758 to 196465. The attachment and auction of the land measuring 81 Kanals 31 Marlas in the hands of the petitioner was admitted. It was averred that the sanction to sell the same had been obtained prior hand and the sale was also confirmed by the Commissioner in favour of Dara Singh, respondent No. 4. The action of the respondents was justified by claiming that arrear of land revenue could be recovered from the Lambardar and on his death from his estate in whichever hand it was found.

4. The principal question which arises in this case is whether the Lambardar is a defaulter within the meaning of the Punjab Land Revenue Act whose property can be put up for sale so as to recover arrears of land revenue. This matter is squarely covered by a Division Bench judgment of this Court reported in Sardara Singh and others v. Sardara Singh and others, 1976 PLJ 199, wherein it has been held that the Lambardar is not such a defaulter and the sale of his holding thus made by the Revenue Authorities is in excess of powers. Sardara Singh''s case (supra) is reported to be subjectmatter of appeal in the Supreme Court. Nevertheless the Commissioner himself had permitted the petitioner to deposit the said sum by 16.2.1970. On his failure to do so, the objectionpetition was dismissed in default and its restoration refused. The petitioner under the orders of this Court deposited the said sum nearly 101/2 months later, as stated by the learned counsel for the petitioner. There is no such undue delay in deposit, all the more when it was caused under orders of this Court.

5. For the foregoing reasons, the impugned orders of the Financial Commissioner dated 27.11.1970 (copy Annexure `E'') and those of the Commissioner dated 16.2.1970 and 12.5.1970 (copies Annexures `B'' and `C'' respectively) are hereby quashed sustaining the objection of the petitioner that his deceased father was not a defaulter as known to law in accordance with Sardara Singh''s case (supra). And even if he was, there has been caused timely payment of the arrears of land revenue by condoning the delay. Consequently, sale in favour of respondent No. 4 is set aside. This writ petition is accordingly allowed. No costs.

