

(2011) 04 P&H CK 0206
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 11074 of 1990

Vijay Singh

APPELLANT

Vs

The Financial Commissioner and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Haryana Ceiling on Land Holdings Act, 1972 — Section 18(6)

Citation : (2012) 1 ILR (P&H) 939

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Mahavir Sandhu, for the Appellant; S.S. Goripuria, DAG, Haryana., for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—The challenge is to the order passed by the Financial Commissioner under the Haryana Ceiling of Land Holdings Act, 1972. The State took the order in suo mottu revision after the Collector had earlier passed the order holding that there was no surplus and the property retained by the petitioner as owner fall within the permissible extent of land. This order was passed on 23.5.1980. The Financial Commissioner reviewed this order holding that transaction of sale which was made by the owner in favor of his sister on 29.12.1973, was with the intent to defeat the provisions of the Act and hence not bona fide. This transfer had also been adverted to by the prescribed authority, Narwana in his order dated 23.5.1980 and he had held that even if the property were to be included in his holding he would still be left with 208 kanals 7 marlas of land which was lesser than the limit of permissible area. Learned counsel for the petitioner refers to the decision of the Hon''ble Supreme Court in Loku Ram vs. State of Haryana and others, reported in 1999 1 PLJ 1, to hold that the Financial Commissioner's power in review u/s 18(6) cannot be indefinitely exercised beyond a reasonable time. The Hon''ble Supreme Court was actually dealing with the situation in the decision taken by the Collector after 7 years

when the earlier order by a competent authority was that there had been no surplus. I will see this judgment to be wholly governing the point involved in this case, for nowhere in the impugned order of the Financial Commissioner is there a reference as to how the decision taken by the competent authority could not be challenged by means of appeal within the time prescribed under the Act. The suo mottu revision even when there was provision for an appeal was clearly not justified.

2. The impugned proceedings are quashed and the writ petition is allowed.