
(1981) 07 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. 265 of 1969

Vir Singh	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 13-07-1981

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1981) 3 ILR (P&H) 525

Hon'ble Judges : Prem Chand Jain, J

Bench : Single Bench

Advocate : G.C. Garg, for the Appellant; A.S. Sandhu, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Prem Chand Jain, J.—Vir Singh has filed this petition under Articles 226/227 of the Constitution of India for the issuance of an appropriate writ, order or direction, quashing the orders of the Collector, dated 31st August, 1961, Additional Commissioner dated 11th May, 1964; and the Financial Commissioner dated 8th October, 1968, Annexure "A", "C" and "J" respectively. It is not necessary to state the facts as the only point raised by the learned Counsel for the Petitioner is that the surplus area in the hands of Ishar Singh was declared by the Collector on 31st August, 1961, without issuing any notice to the Petitioner. According to the learned Counsel, the Petitioner has been a tenant of the land in village Abhun prior to the coming into force of the Punjab Security of land Tenures Act (hereinafter referred to as the "Act") and that he was entitled to a notice by the Collector before the area in the hands of Ishar Singh could be declared surplus.

2. After giving my thoughtful consideration to the entire matter in the circumstances of the cases, I do not find any merit in this contention of the learned Counsel. It would be pertinent to observe that Vir Singh Petitioner has not placed any material on the record showing his possession as tenant prior to

the coming into force of the Act, over the land in village Abhun. In the order of the Collector it has been specifically mentioned that no agricultural land had been under cultivation of any tenant since 1952. Mr. Garg, learned Counsel for the Petitioner, submits that before the Additional Commissioner a plea was set up in this respect and the Additional Commissioner only examined the Patwaris of villages Jaurki and Shajrana and did not call the Patwari of village Abhun from whom it could be found out whether the Petitioner had been cultivating the land of Ishar Singh as a tenant in that village or not. It is correct that from the order it is not clear whether the Patwari from village Abhun was summoned by the Additional Commissioner or not; but the fact remains that the Petitioner at no stage produced the copies of Khasra Girdawari entries or of the Jamabandi showing his possession as a tenant under Ishar Singh. The learned Counsel for the Petitioner is trying to take benefit of this fact alone that no notice was issued to Vir Singh Petitioner before deciding the surplus area case and this plea, as earlier observed in the circumstances of the case, is not tenable.

3. The matter can be looked at from this angle also. The surplus area case of Ishar Singh, father of the Petitioner, was decided by the Collector on 31st August, 1961. The Petitioner and Ishar Singh preferred an appeal against that order, which was dismissed by the Additional Commissioner on 11th May, 1964 (Copy Annexure "C" to the petition). This order of the Additional Commissioner was allowed to become final by the Petitioner as no revision petition was filed. However, after some time the Petitioner and his father Ishar Singh, filed a review petition before the Additional Commissioner against the aforesaid order, but the review petition was dismissed on 26th August, 1966. The Petitioner only challenged the order of the Additional Commissioner dated 26th August, 1966, refusing to review his earlier order dated 11th May, 1964, before the Financial Commissioner and did not challenge the order of the Additional Commissioner dated 11th May, 1964 on merits. In this situation also, the Petitioner has again disentitled himself to raise the plea that the impugned order was passed by the Collector without/issuing any notice to him.

4. Thus viewed from any angle, there is no merit in this petition. Consequently the same is dismissed with no order as to costs.