(1988) 04 P&H CK 0003

High Court Of Punjab And Haryana At Chandigarh

Case No: Amended Civil Writ Petition No. 5538 of 1981

Maha Singh and others		APPELLANT
	Vs	
The State of Haryana and another		RESPONDENT

Date of Decision: April 29, 1988

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: K.S. Kundu with Mr. J.B. Tacoria, for the Appellant; P.S. Chauhan for A.G. (Hy), for the Respondent

Final Decision: Allowed

Judgement

J.V. Gupta, J.

One Atma Ram, son of Dari-yai Lal was a big landowner of village Kakodar Tehsil Panipat District Karnal. He sold land to the petitioners on May15, 1958, measuring 55 bighas 6 biswas regarding which mutation No. 129 was duly sanctioned in their favour. Since then they are cultivating the suit land according to their shares. On April 3, 1970, the area of the said Atma Ram, the big landowner, was declared surplus without any notice to the petitioners. It included the land purchased by the petitioners from the said Atma Ram. According to the petitioners, after the coming into force of the Haryana Ceiling on Land Holdings Act, 1972 (hereinafter called the Act), the transfers of the Land made by the big landowners prior to July 30, 1958, were protected and that being so the land purchased by the petitioners on May 15, 1958, was to be excluded while declaring the area surplus in the hands of the big landowner Atma Ram. In order to get the land released from the surplus pool under the Act, they moved applications before the Collector, Agrarian Surplus, Panipat, on April 27, 1981. Three separate applications were filed by the petitioners which were dismissed vide Annexures P. 1, P. 2 and P. 3 dated October 12, 1981. The petitioners challenged the said order of the Collector by way of this writ petition which was earlier dismissed by the Motion Bench on January 18, 1982 That was subsequently

reviewed vide order dated November 27, 1986, and therefore, the earlier order dated January 18, 1982, was recalled. On March 27, 1987, the writ petition was, thus, admitted.

2. As a matter of fact, the matter already stands concluded between the parties vide order dated November 27, 1986, wherein it has been held, relying upon the Full Bench judgment of this Court in Shmt. Jaswant Kaur v. The State of Haryana 1977 P.L.J. 230, that the other transfers of land in excess of permissible area under the Punjab Law or the PEPSU law would be protected if the transfers were made prior to July 30, 1958. In view of the above-said Full Bench judgment of this Court and the order of this Court dated November 27, 1986, this proposition could no more be contested and therefore, the transfer made in favour of the petitioners by Atma Ram, the big landowner on May 15, 1958, was protected.

3. Faced with this situation, the learned counsel for the respondents, submitted that the writ petition suffers from delay as the petitioners did not move any application within reasonable time when the area was declared surplus in the year 1970. The applications were moved for the first time to the Collector on April 27, 1981, which were rightly dismissed by the Collector.

4. I do not find any merit in this contention. Admittedly, the petitioners have been in possession throughout. The State Government never dispossessed them even when the area was declared surplus in the year 1970. As soon as the State Government wanted to dispossess them, they moved the Collector immediately thereafter.

5. Consequently this writ petition succeeds and is allowed. The impugned orders, Annexures P. 1, P. 2 and P. 3 are quashed. The land purchased by the petitioners on May 15, 1958 from the big landowner Atma Ram will not be taken into consideration while declaring the land surplus in his hands if any. It may be made clear that the State Government will be entitled to take any appropriate proceedings for declaring the area surplus in the hands of Atma Ram, the big landowner, in accordance with law. There will be no order as to costs.