

Maha Singh and others Vs The State of Haryana and another

Court: High Court Of Punjab And Haryana At Chandigarh

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 May 15, 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.