

(1996) 03 P&H CK 0023

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 1645 of 1983

Gurdial Singh (Died)

APPELLANT

Vs

The Financial Commissioner,
Revenue and Others

RESPONDENT

Date of Decision: March 22, 1996

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 11

Citation: (1996) 113 PLR 536 : (1996) 3 RCR(Civil) 667

Hon'ble Judges: G.C. Garg, J

Bench: Single Bench

Advocate: H.S. Mattewal and Gurminder Singh, for the Appellant; A.G. Masih, AAG for Respondent Nos. 1 to 3 and K.B. Bhandari and Manu Bhandari, for Respondent Nos. 5 to 15, for the Respondent

Final Decision: Dismissed

Judgement

G.C. Garg, J.

Petitioner, a big landowner entered into an agreement to sell the whole of his land to respondents 4 to 15 and a part of the purchase price was paid and the balance was to be paid at the time of registration. The case of the petitioner is that respondents 4 to 15 committed breach of the agreement to sell and this compelled him to file a suit for possession of the land in the court of the Subordinate Judge at Amritsar which is pending. However, as the petitioner continued to be the owner, he filed his return in form "A" u/s 5(1) of the Punjab Land Reforms Act, 1972. An area measuring 21.04 hectares in the hands of the petitioner was declared surplus. However, this order was set aside at the instance of the private respondents. When the matter was again taken up by the Collector, he came to the conclusion that there was no surplus area which could be declared surplus in the hands of the petitioner. Appeal there against was dismissed. Further revision was dismissed by the learned Financial Commissioner. It is in this situation petitioner has filed this writ

petition under Articles 226/227 of the Constitution of India with a prayer that orders Annexures P-4 to P-7 be set aside.

2. Respondents have filed replies and have supported the orders of the authorities under the Punjab Land Reforms Act, 1972.

3. The only grievance of the learned counsel for the petitioner is that the authorities under the Act went wrong in observing that the Private respondents have become owners of the land in dispute especially when they are not paying any sort of rent etc. to the land owner and are recorded in possession as "Batswar Bai" and, therefore, the land owner is not left with any land, which could be declared as surplus.

4. Mr. Bhandari learned counsel for the private respondents very fairly and in my opinion rightly stated that the findings recorded by the authorities under the Punjab Land Reforms Act are only restricted to the case decided under the Land Reforms Act only and cannot effect the rights of the parties in a civil litigation which, is pending between the parties. He further submitted that the findings will not be in any way taken advantage of by the private respondents in Civil proceedings pending before the Civil Court or the arbitrator and it will be open to the parties to have their rights determined therein according to law. For the fair stand taken by the learned counsel for the private respondents no dispute remains for adjudication before this Court. Even otherwise, I find that the authorities have themselves clarified that the observations made are only in the context of the Land Reforms Act. It is clear that any observation made by a Court about the title of the parties which is not competent to determine the same will not bind the parties in civil proceedings before the Civil Court. The suit pending before the Civil Court will have to be decided on its own merits and the observations made by the authorities while taking up the surplus area case of the petitioner cannot be taken to be res-judicata on the question of title. Thus there is no merit in this writ petition and the same is accordingly dismissed with no order as to costs.

5. During the pendency of the writ petition petitioner died and an application under Order 22 Rule 3 of the CPC was moved for bringing on record the legal representatives of the deceased petitioner. Since, the application was filed after long delay an application u/s 5 of the Limitation Act was also moved seeking condonation of delay in bringing on record the legal representatives. Learned counsel for the private respondents had no serious objection to the prayer in these two applications being granted. Civil Misc. applications are consequently granted and the legal representatives are ordered to be brought on record by condoning the delay. Civil Misc. application also stand disposed of.