

(1982) 08 P&H CK 0048

High Court Of Punjab And Haryana At Chandigarh**Case No:** R.O.R.No. 406 of 1978-79

Kartar Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision: Aug. 25, 1982**Citation:** (1983) PLJ 282 : (1984) RRR 119**Hon'ble Judges:** K.S.Narang, F.C.**Advocate:** P.N. Aggarwal, Advocate., Advocates for appearing Parties

Judgement

K.S. Narang, F.C.

1. This is a revision petition under section 18 of the Punjab Land Reforms Act, 1972 (hereinafter called the Act) read with Section 84 of the Punjab Tenancy Act, against the order dated 28.11.1978 of the Commissioner, Ferozepur in surplus area case of Kartar Singh, landowner.

2. Brief facts of the case are that Kartar Singh, a big landowner of village Bir Khurd, Tehsil Mansa furnished the declaration form 'A' under Section 5(1) of the Act. On verification by the Agrarian staff, it was found that on the appointed date 24.1.1971, Kartar Singh (landowner) and his wife Smt. Nand Kaur owned land measuring 272 Kanals 4 Marlas. On the basis of entries of Khasra Girdawaries for Rabi and Kharif, 1970, it was calculated that Kartar Singh and his wife Nand Kaur, held 8.9123 hectoros of Ist quality of land. It also came to light that Nand Kaur has transferred some land to a stranger through a registered deed executed on 29.6.1971 and 21.6.1972. The Agrarian Authorities held both these transfers to be bona fide and excluded 0.8637 hectoros of Ist quality land from the holding of the landowner, while assessing his surplus area. Since the family of landowner consisted of less than 5 members, the Collector Agrarian by his order dated 24.7.1976, left 7 hectoros as permissible area with landowner and remaining area measuring 1.0486 hecatres of Ist quality was declared as surplus with him. Kartar Singh (landowner) thereupon filed an appeal before the Commissioner, Ferozepur Division, who rejected it by his order dated 28.11.1978. Kartar Singh has now filed revision petition.

3. Main grounds urged on behalf of the petitioners are :

- (i) that the surplus area has not been properly evaluated while converting it into Ist quality of land;
- (ii) that his adopted son, Mohinder Singh from his second wife, Nand Kaur was entitled to a separate permissible unit being an adult.
- (iii) that the Courts below have not left the permissible area for the old sitting tenants; and, lastly
- (iv) that decree passed by the Civil Court in favour of his adopted son (Mohinder Singh) had not been taken into account.

These contentions have vehemently been opposed by Shri Chuhan Singh, Naib Tehsildar Agrarian representing the State. On the issue of alleged incorrect evaluation he stated that this plea was taken in appeal before the Commissioner but he later withdrew it after going into the various figures of calculations, as would appear from last lines of para 3 of Commissioner's order. The petitioner had also taken the plea with regard to the alleged old sitting tenants at the appellate stage before the Commissioner but he has further stated that no plea was taken by the petitioner before the Commissioner in the grounds of his appeal about any decree passed by the point cannot be taken before the Financial Commissioner at the revisional stage. The counsel for the petitioner has no convincing reply. The only vexed question for determination before me is whether a son from loins of previous husband of Nand Kaur had any right to claim a separate unit. The Naib Tehsildar has drawn my attention to the orders of the Collector Agrarian and Commissioner, who have gone deep into this important question and have come to the conclusion that Mohinder Singh son of Kartar Singh, the previous husband of Smt. Nand Kaur, cannot claim a separate unit of 7 hectoros from the holding of Kartar Singh.

4. I have heard the counsel for the petitioner at length. Kartar Singh, landowner had given a statement on 27.2.1976 before the Collector Agrarian in clear and plain words that he had no son. After the death of her previous husband Kapur Singh, Nand Kaur is stated to have entered into a karewa marriage with Kartar Singh on 8.6.1955. It should have no effect on the surplus area of the petitioner and none was claimed through a change in the record of rights or otherwise. Clearly, his son Mohinder Singh born from the wedlock of her previous husband (Kapur Singh) in whose property he would have a valid claim but has absolutely no concern with property of Kartar Singh. I am of the confirmed view that Mohinder Singh had a right to have a share in the property, if any, left by his previous father Kapur Singh. In the background of this discussion, I have no reason to differ with the concurrent findings on this issue of the Collector Agrarian and the Commissioner, who had given their view in unequivocal terms that Mohinder Singh had absolutely no right to claim a separate unit from the holding of Kartar Singh even though his mother Nand Kaur had entered into karewa marriage with Kartar Singh.

5. For the reasons given above, revision petition has no merit and I reject it.

To be communicated. Petition accepted.