(2014) 05 P&H CK 0233

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 7353 of 1992 (O and M)

Hati Singh	APPELLANT
Vs	
State of Haryana	RESPONDENT

Date of Decision: May 8, 2014

Acts Referred:

- Haryana Ceiling on Land Holdings Act, 1972 - Section 11, 8

Citation: (2014) 175 PLR 831

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Amit Jain, Advocate for the Appellant; Rahul Sharma, Additional Advocate General, Advocate for the Respondent

Final Decision: Dismissed

Judgement

K. Kannan, J.

The writ petition is at the instance of representatives of the big land owner Kabiz Singh, who were aggrieved by the order passed by the Financial Commissioner in purported exercise of power of revision under the Haryana Ceiling of Land Holdings Act, 1972 (for short ''the Haryana Act''). By the impugned order dated 20.03.1992, the Financial Commissioner had set aside the order dated 15.04.1981 passed by the Prescribed Authority under the Punjab Security of Land Tenure Act, 1953 (for short ''the Punjab Act''). The Prescribed Authority had held that though the original land owner''s holding was beyond the ceiling limit and a declaration had also been made to that effect on 24.01.1971, in as much as the State had not utilized the property and succession had opened on the death of Kabiz Singh and hence a fresh reckoning had to be done. When the Haryana Act come into force, according to the petitioners, the legal representatives were entitled to claim exemption from the applicability of the Act. The Prescribed Authority had reasoned that the benefit of inheritance shall be given to the petitioners and exempted 8 standard acre equivalent to 110 kanals 13 marlas out of surplus pool had to be provided. The

revisional authority held that this decision was wrongly made and a harmonious construction of Section 8 & 11 of the Haryana Ceiling of Land Holdings Act would make it clear that the effect of succession for exemption will not operate if property has already become vested with the State under Punjab or Pepsu Law. In fact, the Financial Commissioner was setting aside the order passed by the Prescribed Authority on 15.04.1981.

2. The challenge in the writ petition is mounted on a singular consideration that a revisional authority does not have a power to reopen an order already passed by an officer subordinate to him at any time. Even when the authority passed the impugned order, the order has not set out any justifiable circumstances under which it came to be reviewed after a delay of 11 years. The counsel would refer me to the decision of this Court in Dayawanti and others v. The State of Haryana and others, in CWP No. 7074 of 1991 and the decision of the Supreme Court which Dayawanti''s relies on namely Loku Ram v. State of Haryana, where it was held that the power of revision has to be exercised within a reasonable time and it would be unreasonable to hold that the Financial Commissioner has unlimited power to entertain revision after a lapse of several years. The Supreme Court was actually considering the period of seven years as itself unreasonable while setting aside the order of the Financial Commissioner.

3. In this case, I have examined the order of the Financial Commissioner as well as the order which was reviewed by the Financial Commissioner. The Prescribed Authority which has passed the order dated 15.04.1981 providing for exemption in the hand of son of a big land owner, after a property was declared as surplus under Punjab Law, is patently erroneous and makes a wrong statement of law. This position of law has been brought through several -decisions of the Supreme Court. To wit in Amar Singh and Others Vs. Ajmer Singh and Others, , the Supreme Court held that if the land declared surplus under Punjab Security of Land Tenures Act, there is nothing under the Haryana Act to delay the vesting of surplus in the state. The fact that the surplus land is unutilized, the Supreme Court said, was irrelevant.

4. In Ram Swarup and others v. S.N. Maira and others, (1991)1 SCC 738, the Supreme Court has considered typically a situation of what arises in this case. The Court held that if surplus is declared under 1953 Act and further directions were to be made by the state to eligible persons, the fact that the land owner died after the Haryana Act and before utilization of the land leaving behind the legal heirs would make no difference. The Supreme Court observed that there can be no fresh redetermination under the Haryana Act. It is this position which was also stated earlier in Sampuran Singh Vs. The State of Haryana and others, that the Haryana Act does not promote redistribution and adjustment of unutilized surplus declared under the Punjab Law, merely because the possession remained with the land owner and they were allowed to cultivate the same till its utilization and enforcement of the Haryana Act. The Financial Commissioner was, therefore, correcting a patent and illegal order

passed by the land owner giving the benefit to the representatives of the big land owner who had already suffered an order under the Punjab Law of 1953 where his holding of 110 kanals 13 marlas had fallen a surplus and declared as such as early as on 24.01.1971 and this was the declaration which the Prescribed Authority had annulled by the order passed on 15.04.1981. The power of revision which the higher authority held must be exercised within time must qualified to such an extent that it has always to be seen whether a land owner had by virtue of an order passed by an authority had altered his position in such a way that any review or revision exercised by higher authority could be work any gross prejudice. Orders passed by public authorities will have a serious impact for parties to adjust their own rights and plan their holdings.

5. If, in this case, the owner had acted on the order of the Prescribed Authority on 15.04.1981 and had involved third party interest and a revisional authority was making an intervention beyond a reasonable period which would jeopardize third party interest and exposed further hardship to the land owners, then, it can be stated that the power of revision exercised was unreasonable and the parties must have the benefit of an earlier order on the basis of which readjustment of rights had been made. I do not find any such statement to made anywhere in the petition explaining as to how this order causes any new hardship. The hardship that has to be noticed is not that after the wrong order the landowner had acted and, therefore, hardship had been caused. The hardship must have flowed out of a wrong order and where the land owner had incurred some detriment on working on his land which was allowed to be held by him and sought to be taken by the state. There can be no estoppel against law. A person who has come by a benefit of the wrong order cannot state that the Government shall not rectify a egregious mistake and fend off appropriate action taken under the Ceiling Law. Ceiling Legislation is an important piece of social reform which gives effect to the constitutional imperative of making redistribution of wealth equitably and to prevent concentration of wealth in the hands of few landlords. The Act promotes social and economic justice and any interpretation thwarts its full expression must be turned down by judicial interventions.

6. A surplus land is meant for distribution for persons who do not own land and to persons who are identified as the eligible classes of persons who secured the benefit. The big land owner must cede his own personal interest to larger public interest, which will be the better by giving effect to the order passed by the Financial Commissioner. I maintain the order passed by the Financial Commissioner and dismiss the writ petition.