

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 1852 of 1995

Date of decision : 24.12.2014

Mukand Singh & anr.

....Petitioners

V/s

Financial Commissioner (R) Haryana & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sarwan Singh, Sr. Advocate with
Mr. N.S. Rapri, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG Haryana.

Mr. S.S. Dinarpur, Advocate for respondents no. 3 to 5.

RAJAN GUPTA J.

Petitioners seek a writ in the nature of certiorari for quashing order, Annexure P12 dated 28.04.1994 passed by respondent no. 1.

Learned counsel for the petitioners has assailed the order. He submits that Financial Commissioner has erred in reversing the order passed by authorities below. According to him, application under section 8 of the Act was maintainable before the authority. Thus, impugned order deserves to be quashed.

Plea has been vehemently opposed by learned State counsel. He submits that after enforcement of the Haryana Ceiling on Land Holdings Act, 1972, surplus area as well as tenant permissible area is deemed to have been vested in the State. According to him, application of the landowner for change in khasra

numbers from his reserved area cannot be allowed by Sub Divisional Officer. Thus, impugned order is sustainable.

Heard.

Brief factual background of the case is that Mukand Singh (petitioner no. 1 since deceased) was the big landowner. His land was declared surplus under the provisions of Punjab Security of Land Tenures Act, 1953 (hereinafter to be referred as the 'Act') vide order dated 18.07.1960 by the competent authority. As reserved area of the petitioner was wrongly shown to be vested in the State, he moved an application before Sub-Divisional Officer (Civil) seeking correction thereof. Said authority after going through the record and hearing the parties concerned allowed the application of petitioner no. 1 and rectified the same by separating the reserved area of the petitioner from the surplus area vide order dated 06.05.1978. However, prior to this order, petitioner no. 1 gifted certain land to petitioner no. 2 in the year 1958. Out of this land, petitioner no. 2 vide two registered sale-deeds dated 14.06.1972 & 15.09.1972 sold 128 kanals to respondents no. 3 to 5 and 81 kanals 6 marlas of land to respondent no. 6. As land purchased by respondents no. 3 to 6 was wrongly included in the surplus land vide aforementioned order dated 06.05.1978, they preferred appeal before Commissioner which was dismissed vide order dated 09.10.1979. Thereafter, respondents no. 3 to 6 preferred writ petition before this court. This court set-aside the order passed by revenue authority and remitted the matter to Sub-Divisional Officer (Civil) for decision afresh after hearing the parties. The parties, thereafter, appeared before the said authority.

However, application was dismissed. The order was unsuccessfully challenged before the Collector as well as Commissioner, Ambala Division. Dis-satisfied, respondents no. 3 to 5 and 6 preferred two revisions before the Financial Commissioner, Haryana. Said revisions were clubbed together and vide impugned order dated 28.04.1994, Financial Commissioner accepted the same and set-aside the order of authorities below. Aggrieved, present petition has been filed.

I find no infirmity with the order passed. Admittedly, land of the petitioner was declared surplus on 18.07.1960. After enforcement of the Haryana Ceiling on Land Holdings Act, 1972, surplus area as well as tenant permissible area is deemed to have been vested in the State. No power is conferred in the Act to allow or approve any change in the reservation selection once made by the landowner. Learned counsel for the petitioner has not been able to show any infirmity with the order passed. In light of judgments reported as *Amar Singh vs. Ajmer Singh & ors.* 1994(3) RRR, 90 and *Megh Raj & ors. vs. Manphool & ors.* 2008(3) RCR (Civil) 241, no defect can be found with the findings of Financial Commissioner. There is, thus, no ground to interfere in writ jurisdiction. Petition is without any merit and is hereby dismissed.

December 24, 2014
Ajay

(RAJAN GUPTA)
JUDGE