

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

CWP No. 15147 of 2015 (O&M)

Date of decision: 27.07.2015

Ami Lal and others

...Petitioners

Versus

Financial Commissioner, Revenue, Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Mahavir Sandhu, Advocate for the petitioners.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioners seek quashing of the orders dated 27.06.1960 and 25.07.1979 (Annexure P-1 and P-3) respectively, passed by respondent No.3 and order dated 05.08.2014 (Annexure P-5), passed by respondent No.1 being illegal, unfair and without jurisdiction.

The brief facts of the case are that in the year 1952-53, the predecessor of the petitioners, namely Mollu was the owner in possession of the land measuring 34 standard acres situated in village Pundri, Tehsil and District Kaithal. In the year 1960, the consolidation of holding took place in the village and Udmi father of Mollu was allotted 1/32 shares in the land measuring 162 kanals and 8 marlas. During the life time of Mollu, he suffered a civil Court

decree dated 16.03.1959, in favour of his successors i.e. petitioners. Subsequent to the decree passed by the Civil Court, mutation No. 3498 was sanctioned in favour of the petitioner on the basis of Civil Court decree. However, one Ran Singh son of Nanhu filed an application before the respondents claiming that the land measuring 5.08 standard acres was in possession of the said Mollu being mortgagee and the said land has already been redeemed. The said application was allowed by the respondents, vide order dated 06.08.1999 (Annexure P-2) exempting the land measuring 5.08 standard acres from the surplus pool of the father of the petitioners, namely, Mollu. After releasing the aforesaid land of 5.08 standard acres, the respondent prescribed authority had illegally declared the land measuring 6.21 standard acres equivalent to 52 kanals 04 marlas as surplus.

It is contended that the impugned orders deserve to be quashed being perverse, illegal and arbitrary in nature. The land measuring 6.21 standard acres equivalent to 52 kanals 04 marlas was wrongly declared as surplus by the respondent prescribed authority because the land of the kind of Banjar Kadim and Gair Mumkin was also included in the permissible area of the father of the petitioners. The learned counsel refers to the provisions of the Punjab Security of Land Tenure Act, 1953 (for short 'the Act') to submit that the said land does not come under the definition and purview of the term

'land' and the same ought to have been exempted from the surplus area. Neither the petitioners nor their predecessors in interest were aware about the allotment of land in question under the Haryana Ceiling of Land Holding Act, 1972 which came into existence w.e.f. 24.01.1971. The petitioners being the owners remained in the continuous physical possession of the same till date without any objection from any persons. At no point of time, the petitioners were aware about the said proceedings till 2003 when one Ran Singh and others approached the authority to get the revenue record corrected on the ground that the mortgage in favour of Mollu has already been redeemed.

The learned counsel cites Munshi Ram etc. Vs. The Financial Commissioner Haryana etc., 1979 PLJ 182, Ajmer Singh Vs. State of Haryana, 1990(1) SCC 227 and M/s Shakti Tubes Ltd. Vs. State of Bihar and others, 2009(1) RCR (Civil) 512.

Heard.

In the instant case, the predecessor of the petitioners, namely Mollu was in possession of a large chunk of land situated in village Pundri, Tehsil and District Kaithal. As per the provisions of the Act, he could retain 30 standard acres area and vide impugned order dated 27.06.1960 (Annexure P-1), the land measuring 11.29 standard acres was declared as surplus. The said order was not

assailed till the commencement of the Haryana Ceiling of Land Holdings Act, 1972. The petitioners have challenged the impugned order dated 27.06.1960 in the year 2009, after a lapse of 39 years. The land in question had already vested with the State of Haryana in the year 1971 and stands further allotted to the eligible persons. The law cited by the learned counsel for the petitioner is distinguishable on facts and is not applicable in the present context.

Therefore, this Court feels that there is no perversity or illegality in the impugned orders dated 27.06.1960 and 25.07.1979 (Annexure P-1 and P-3) respectively and order dated 05.08.2014 (Annexure P-5).

Accordingly, the present petition is hereby dismissed.

27.07.2015

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(JITENDRA CHAUHAN)
JUDGE