

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.7833 of 2015

Date of Decision:-27.04.2015

Sadhu Singh & Ors.

.....Petitioners.

Versus

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Jaspal Singh, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

The allottees whose predecessors were tenants in various parcels of land out of the surplus area of Sewa Ram (his successors in interest are the private respondents herein) have preferred the present writ petition challenging the orders dated 03.04.2013 (P-12) and 27.01.2012 (P-11) passed by the Authorities below, whereby order dated 18.12.2000 (P-9) passed by the Sub Divisional Officer, Sirsa and District Collector, Sirsa dated 31.03.2006 (P-10) were found to be deficient and the area which was declared surplus of the original land owner-Sewa Ram vide previous orders were held to be incorrect.

In brief, facts of the case are that the predecessors in interest of the present petitioners were allotted the land which was declared surplus of Sewa Ram, being the tenants of Sewa Ram. The said allotment was made

under the Haryana Ceiling of Land Holdings Act, 1972 (for short the '1972 Act') after the area of Sewa Ram was declared surplus, Sewa Ram filed a writ petition after exhausting his remedies before the Authorities below vide CWP No.468 of 1980 challenging the orders passed by the Authorities below. In the meantime, the petitioners or their predecessors in interest were already allotted the land which was declared surplus and were not impleaded as a party by Sewa Ram in CWP No. 468 of 1980 since the same was pending adjudication. The prescribed authority adjourned the proceedings sine-a-die under the 1972 Act awaiting culmination of the proceedings challenging the declaration of the land surplus. Vide judgment dated 21.10.1992 this Court allowed the writ petition and quashed the orders whereby Sewa Ram's area was declared surplus. As per the decision of this Court, Sewa Ram was held entitled to permissible area in terms of standard acres. The judgment has been attached as Annexure P-7.

Subsequent to the judgment delivered in CWP No.468 of 1980, Lr of Sewa Ram namely his wife Tirthi Bai filed another declaration form under Section 9 of the 1972 Act on 22.2.1994 claiming benefit of Section 10 A(b) of the Punjab Security of Land Tenures Act, 1953 on the ground that big land owner had died on 1.6.1982 and determination of his surplus area case was pending before this Court which was decided on 21.10.1992 and, therefore, Sewa Ram's status had to be seen from the date of judgment i.e. 21.10.1992 not from the appointed date provided under the 1972 Act i.e. 24.1.1971. Apart from that, Tirthi Bai had also claimed exceptions of sales affected after the appointed day and also claimed an additional unit in respect of her son i.e. Radhey Sham. Thereafter litigation kept pending before numerous authorities which ultimately culminated into order dated

18.12.2000 (**P-9**) by the prescribed authority-Sirsa who did not accept the claim by the big land owner and came to a positive conclusion that the status of the big land owner was to be seen on 24.1.1971 i.e. the appointed day under the 1972 Act. An appeal was preferred by the Lrs of Sewa Ram which was dismissed vide order dated 31.03.2006 by District Collector (**P-10**). Against the said order, a revision petition was filed before the Commissioner, Hisar Division, who has set aside the orders of the lower Authorities vide its order dated 27.01.2012 impugned herein as Annexure **P-11**. The petitioners herein filed revision petition before the Financial Commissioner against the order **P-11** which has been dismissed vide order dated 3.4.2013 (**P-12**). Hence the present writ petition.

Learned Counsel for the petitioners has argued that the Authorities below, while passing the impugned orders have failed to consider the fact that the judgment rendered by this Court in CWP No.468 of 1980 which was decided on 21.10.1992 was passed behind their back and as such is not binding upon the petitioners. It was further argued that the petitioners were allotted the surplus land as per the Punjab Act and, therefore, the land already stands utilised and hence the order passed by this Court in CWP No.468 of 1980 is not valid in the eyes of law and hence the same is liable to be set aside being null and void.

After hearing learned Counsel for the petitioners and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and same deserves to be dismissed.

The learned Financial Commissioner in its impugned order has observed that since this Court in CWP No.468 of 1980 has already set aside the declaration of surplus area of Sewa Ram, therefore, the subsequent

allotment made in favour of the petitioners is of no value in the eyes of law. This Court completely agrees with the observations made by the learned Commissioner because, admittedly, no appeal was filed against the order dated 21.10.1992. Although the petitioners were allotted the land, however, it is always subject to the finalisation of the proceedings before the Authorities and at the time when the writ petition was filed the rights of the petitioners had not been crystallised. As per the arguments of the learned Counsel for the petitioners, petitioners were allotted surplus area after same was declared vide order dated 24.5.1962. However, no specific date is given as to when the same was allotted to the petitioners. Not only this, the petitioners are bound by the judgment passed by this Court in CWP No.468 of 1980 because the very basis on which the land was allotted to the petitioners was under challenge before the Authorities who were competent to adjudicate the subject matter. Once, the basis on which the area was subsequently allotted to the petitioners or their predecessors was under challenge, the petitioners cannot have any grievance against any order which is passed subsequently. It is settled position of law that a person can be allotted a piece of land by any Authority if such Authority has the power or the capacity to transfer such land in favour of third party. However, once, such authority had lost control/right over the allotment, then the allottee can possibly have no grievance against the same.

Keeping in view the totality of the circumstances as well as the pleadings of the petition and the orders passed by the Authorities below, this Court does not find any illegality or infirmity to interfere in the findings.

In view of the above, finding no merit in the present writ

petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

April 27, 2015
Vinay