

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.1006 of 2015 (O&M)

Date of Decision: July 10, 2015

Parkash (deceased) through LR's. and othersAppellants
versus
Financial Commissioner, Revenue, Haryana and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Gurnam Singh, Advocate, for the appellants.

1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

This letters patent appeal assails the order dated 19.07.2013 whereby learned Single Judge has dismissed the appellants' writ petition challenging the orders passed by the Financial Commissioner (Revenue), Haryana, dated 18.08.1989 and 28.09.1989.

[2] The facts may be noticed briefly.

[3] Smt.Son Kaur of village Khanheri was a big land-lady and a part of her land-holding was declared surplus. The predecessor-in-interest of appellants had left his estate in Pakistan and his claim for allotment of land under the Rehabilitation Scheme was under consideration. Vide an order dated 30.04.1965, the appellants' predecessor was allotted the 'surplus land' of Smt.Son Kaur. The installments were also deposited.

[4] There were old tenants of Smt.Son Kaur who challenged the above-stated allotment and the Financial

Commissioner, Haryana, vide order dated 10.11.1971 remanded the case to Collector for fresh adjudication. The Collector passed the order dated 29.09.1978 holding that the old tenants were entitled to their 'permissible area' and as such 4 kanal of land out of the land in dispute was liable to be allotted to them i.e. the old tenant (Kundan). After several rounds of litigation upto this Court, i.e., CWP No.123 of 1987, decided on 22.05.1987, the matter was remanded to Financial Commissioner (Revenue) to decide the same afresh. In compliance thereto, the Financial Commissioner (Revenue) vide impugned orders upheld the claim of old tenant (Kundan) to the extent of 4 kanal land.

[5] The aggrieved appellants tried their luck firstly by way of a revision petition before the Financial Commissioner and then they approached the learned Single Judge but failed before both the forums.

[6] Two-fold contentions were raised by the appellants which have been reiterated before us also, namely, (i) Kundan has not been proved to be an old tenant, and (ii) they have already acquired ownership rights pursuant to the allotment dated 30.04.1965 and they could not be deprived of their immovable property without payment of compensation.

[7] Having given our thoughtful consideration to both the contentions, we do not find any substance therein. We say so for the reason that as per the revenue record, Khasra No.1354 was in possession of Kundan. The revenue authorities have returned a finding of fact that old khasra No.1354 was changed to new khasra No.1400. That very khasra number has been allotted to Kundan, namely, the old tenant being in its possession since 15.04.1953.

[8] The allotment of subject land under the Rehabilitation Scheme in favour of the appellants (their predecessor) behind the back of old tenant and that too without examining the revenue record did not confer an indefeasible right to hold such land.

[9] As regard to the perceived right said to have been acquired on the basis of allotment made in the year 1965, suffice it to observe that the said allotment never attained finality as it was set-aside by the Financial Commissioner on 10.11.1971 when the matter was remanded to the Collector. In any case, the appellants, if they are entitled to any additional land under the Rehabilitation Scheme in lieu of the land left by their predecessor in Pakistan, can raise such a claim qua some other piece of land.

[10] Keeping in view the very legislative object and import of the agrarian reforms brought in through the Punjab Security of Land Tenures Act, 1953, followed by the Haryana Ceiling on Land Holdings Act, 1972, the landless old tenants have a preferential right to seek allotment of the surplus land. This is what precisely has happened in the present case.

[11] No interference in the order passed by learned Single Judge is called for.

[12] Dismissed.

[SURYA KANT]
JUDGE

July 10, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM Nos.2093 & 2094 of 2015 in
LPA No.1006 of 2015

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Parkash (deceased) through LRs and others
versus
Financial Commissioner, Revenue, Haryana and others

Present : Mr.Gurnam Singh, Advocate,
for the applicant-appellants.

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Since the main appeal has been decided on
merits, no separate order is required to be passed on these
application for condonation of delay in filing and re-filing the
appeal.

(SURYA KANT)
JUDGE

July 10, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE