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

**Civil Writ Petition No. 24272 of 2016
Date of Decision: 28.11.2016**

Satyanarian (deceased) through his Lrs and others
.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. S.K. Chauhan, Advocate
for the petitioners.

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RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned orders dated 27.1.1977 (Annexure P-9), 1.12.2009 (Annexure P-2), 14.1.2011 (Annexure P-3) as well as order dated 5.10.2011 (Annexure P-4), petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the abovesaid impugned orders, whereby, petitioners, as a matter of fact, sought revival of the order dated 27.1.1977 (Annexure P-9), declaring their land as surplus.

Heard learned counsel for the petitioners.

It is a matter of record that land of the petitioners was declared surplus, vide order dated 27.1.1977 (Annexure P-9) passed by the prescribed authority. Minute details were duly considered and pointed out in the said order. It has gone undisputed before this Court that petitioners did not challenge the initial order dated 27.1.1977 (Annexure P-9), before any higher revenue authority and the said order became final against the petitioners in the year 1977 itself. After lapse of period of more than 30 years, petitioner-Late Sh. Satyanarain filed an application on 8.1.2008 before the same prescribed authority, seeking exemption of area which was declared as surplus area way back in the year 1977. However, said application of the petitioner was duly considered, but was found without any force and accordingly, dismissed vide order Annexure P-1.

Operative part of the order dated 15.9.2009 (Annexure P-1) passed by the Sub Divisional Officer (civil)-cum-Prescribed Authority, Tohsam, which deserves to be noticed here, read as under:-

> *"To its contrary, the Patwari surplus in his arguments stated that the order dated 27.1.1977, is according to the Rules. After haring the arguments of the ld. Counsel and after perusing the documents placed on the file, I have reached to the conclusion that the main controversy in the present case is that whether the points raised in the arguments of the Applicant come within the definition of the clerical mistake under Section 19 of the Ceiling Act, 1972? After considering the points raised in the arguments, it is clear that all the abovesaid facts do not come within the definition of clerical mistakes and if the parties had any objection, then they should have filed an Appeal according to the Rules in this regard before the Competent Court. Accordingly, the application is dismissed being without any facts and baseless. The order was announced. The file be consigned to the record room after due compliance."*

Against the abovesaid order (Annexure P-1), petitioners filed their appeal which was dismissed by the Collector, vide order dated

1.12.2009 (Annexure P-2). Their revision before the Commissioner as well as second revision before the Financial Commissioner met the same fate vide orders Annexures P-3 and P-4. To avoid repetition, observations made by the Financial Commissioner, while passing the impugned order dated 5.10.2011 (Anexure P-4), read as under:-

> *"We have gone through the case file carefully and heard the argument advanced by the Ld. Counsel for the petitioners. The present case was decided on 27.1.1977, which has not so far been challenged by either of the parties. Consequently, the order dated 27.1.1977 has attained finality. The petitioner had filed the application in the court on 8.1.2008 after a gap of 31 years under Section 8 and 19 of the Haryana Ceiling on Land Holding Act, 1972. The relief for exemption under Section 8 of Haryana Ceiling on Land Holding Act, 1972 has not been sought by the petitioner before this Court. He has prayed to remove the clerical mistake under Section 19 of Haryana Ceiling on Land Holding Act. The relief sought by the petitioner is of substantive nature and by no means come in the definition of clerical mistake. Accordingly, we do not find any weight in the argument of Ld. Counsel for the petitioner. For the reason that the orders dated 27.1.1977 has already attained finality and the present case seeking relief on the ground of clerical mistake is not covered under the definition of clerical mistake, we are not inclined to interfere with the orders of the prescribed authority at this stage. Hence. This revision petition is dismissed in limine."*

During the course of hearing, when confronted with the abovesaid factual aspect of the matter, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. If the petitioners were not satisfied with the initial order dated 27.1.1977 (Annexure P-9), it was least expected from them to challenge the same, however, they did not do so, for the reasons best known to them. They woke up from the slumber after a gap of 30 long years and filed the exemption application on 8.1.2008, which was rightly dismissed by the competent authority vide Annexure P-1. Learned counsel for the petitioners could not refer to any reasonable explanation for this inordinate long period of more than 30 years. In fact, there was no such explanation at all. Having said that, this Court feels no hesitation to conclude that respondent revenue authorities committed no error of law, while passing their respective impugned orders (Annexures P-1 to P-4) and the same deserve to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

28.11.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No