

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.10489 of 1994
Date of decision:22.05.2017

Ram Chander

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Sunil Pawar, Advocate
for the petitioner.

Mr. Indresh Goel, Addl.A.G.Haryana.

AMIT RAWAL J.

The petitioner has knocked the door of this Court seeking quashing of order dated 11.01.1994 rendered by the Financial Commissioner, whereby, revision petition preferred against the order dated 21.04.1989 of the Commissioner, Ambala Division, Ambala upholding the order dated 23.11.1959 of Collector, Surplus Area, Sonapat, has been dismissed.

Mr.Sunil Pawar, learned counsel appearing on behalf of the petitioner submitted that the petitioner owned agricultural land measuring 48 standard acres 2 units before the consolidation of holdings which had taken place in village Turkpur, Tehsil and District Sonapat way back in the year 1957. After the consolidation of his holding stood reduced to 43 standard acres 13 ½ units, i.e., by 4 standard acres 4 ½ units but while declaring the land as surplus, the Collector, Surplus Area, Sonapat, vide order dated 23.11.1959 (Annexure P-1) had not taken into consideration that

aspect instead observed that holding was not required to be considered for the purpose of declaration, in essence, form 'F' was never served upon the petitioner. The petitioner preferred CWP No. 7171 of 1976 challenging the vires of Haryana Ceiling on Land Holdings Act and the aforementioned writ petition was dismissed, vide order dated 17.3.1977 (Annexure P-2). Thereafter, the land area 13 standard acres 7 units was sold to Rampat on 16.5.1958 which vide order dated 5.11.1977 was released from the surplus pool. The order of the Collector was challenged before the Commissioner alleging therein that form 'F' had not been served but without adverting to the legal aspect of the matter, the Commissioner, vide order dated 16.02.1978 dismissed the appeal being barred by law of limitation. The revision preferred before the Financial Commissioner was also dismissed, vide order dated 07.09.1979. The petitioner filed Writ Petition bearing No.3836 of 1979 which has been decided by this Court, vide order dated 12.05.1988 and reported as **Ram Chander vs. State of Haryana and others 1988(2) PLR 169**, wherein, noticing the aforementioned fact remanded the matter back to the Commissioner to decide the appeal afresh.

On remand, the Commissioner, vide impugned order dated 21.04.1989, (Annexure P-4) again dismissed the appeal without taking into consideration the reduction of holding of petitioner after consolidation. The revision preferred against the same had also been dismissed, vide order dated 11.01.1994 (Annexure P-6), thus, the aforementioned orders are not sustainable on the ground that the Collector, Surplus Area while determining the permissible area of the petitioner was not required to take into consideration the land reduced in the consolidation proceedings but

should have taken into consideration the entire piece of land and determination of the surplus area has seriously prejudiced the right of the petitioner and therefore, the orders under challenge are not sustainable in the eyes of law. The factum of deduction of area as specifically pleaded in paragraph 2 of the writ petition has not been denied and therefore, there is no necessity of placing on record the order of deduction of area, in essence, in the absence of specific denial, the corresponding paragraph of the writ petition deemed to be admitted.

In support of his contention, relied upon the Hon'ble Division Bench judgment of this Court rendered in **Jang Singh vs. The State of Punjab 1970 PLJ 93** and Hon'ble Full Bench of this Court in **Harchand Singh vs. The Collector, Agrarian, Bhatinda and another 1979 AIR (Punjab) 129**.

Per contra, Mr. Indresh Goel, learned Additional Advocate General, Punjab appearing on behalf of the State has seriously objected to the contention of Mr. Pawar on the premise that the petitioner has not come to the Court with clean hands and concealed the factum of order of the Collector, whereby, while determining the surplus area at the hands of petitioner, his holding was reduced from 48 standard acres 2 units to 43 standard acres 13 ½ units and therefore, his area reduced by consolidation proceedings had been released from surplus pool. Even the land sold to Rampat had been re-purchased by the petitioner. All these factors would leave to irresistible conclusion that the petitioner was left with only 6 ½ units of surplus land and therefore, the authorities after having pondered upon all the aspects have rightly rejected the plea of the petitioner and thus,

urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties and appraised the paper book.

There is no dispute to the ratio decidendi culled out by this Court in the judgments cited above with regard to the area reduced in consolidation for the purpose of surplus area proceedings. The specific stand taken in paragraph 3 of the preliminary submission of written statement reads as under:-

“3. Thereafter, the petitioner challenged the order of Financial Commissioner before the Hon'ble High Court by way of filing the Civil Writ Petition No.3836 of 1979 titled as “Ramchander vs. State of Haryana”. The Hon'ble High Court allowed the writ petition of the petitioner and quashed the order dated 16.02.1978 passed by the Commissioner, Ambala Division and the order dated 07.09.1979 passed by the Financial Commissioner, Haryana and remanded the case to the Commissioner, Ambala division for disposal of the same on merits after treating the appeal as having been filed within limitation. The petitioner put his case in detailed before the Commissioner, Ambala Division on 24.03.1979 at Sonapat Camp alleging that due to consolidation proceeding in the village in 1957, his holding were reduced from 48 S.A. 2 units to 43 S.A 13 ½ units and therefore, his area reduced by consolidation had been released from surplus pool. He further stated he had sold his 127 kanal 3 marla land to Rampat s/p

Teeka on 16.05.1958 for a sale consideration of Rs.25,000/- and also dated that on the application of Rampat, the Collector, Sonapat had also released his land measuring 126 kanal 17 marla equal to 13 S.A 7 units u/s 8 of the Haryana Ceiling Land Holdings Act and thus, he left with only 6 ½ units of surplus land. It is not out of place to mention here that the land sold by the petitioner to Sh.Rampat had again purchased by the petitioner after the same had been released from surplus pool. This shows that the petitioner wants to get double benefit under both the acts. After hearing arguments on both sides the Id. Commissioner found that as per orders/directions of the Hon'ble Court passed in CWP No.7171 dated 19.03.1977, the petitioner was required to submit the declaration form within a month, if he had not already filed such declaration from earlier, but despite the said order, the petitioner did not bother to file his declaration form with the respondents. Further that on the one hand the petitioner through his appeal has challenged the order dated 23.11.1959 passed by the Collector Sonapat under Appeal while on the other hand on the basis of area declared surplus by this order he has benefit by getting released 126 kanal 17 marla land sold on 16.05.1958 to Rampat from surplus pool under Section 8(1) of the Ceiling Act which does not appear to be just. Id. Commissioner also held that the petitioner had preferred the present appeal after lapse of such a long time and now the objection of the appellant that

the Collector Sonepat at the time of deciding his surplus area, did not give benefit of reduction of area due to consolidation to him is not just and dismissed his appeal vide its order dated 21.04.1989.”

The perusal of aforementioned paragraph leaves no manner of doubt that Collector (surplus) while determining the surplus area at the hands of the petitioner had taken into consideration the area which had been reduced in consolidation proceedings. There is no rebuttal by way of replication. In my view, once the area has been taken out, the order declaring the area surplus does not call for any interference.

Resultantly, the impugned orders cannot be said to be vitiated in law or devoid of merit or suffer from any illegality and arbitrariness. Accordingly, while upholding the impugned orders, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

May 22, 2017
savita
Whether Speaking/Reasoned
Whether Reportable

Yes/No

Yes/No