

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

CWP No.6741 of 2000  
Date of decision : 15.03.2017

Satpal

...Petitioner

Versus

Financial Commissioner (Taxation) Punjab, Chandigarh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. Kuldip Sanwal, Advocate for the petitioner.

Ms. Lavanya Paul, Assistant A.G. Punjab.

Mr. G.S. Dhaliwal, Advocate for the respondent No.2.

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**AMIT RAWAL, J. (Oral)**

The petitioner has approached this Court seeking quashing of the orders (Annexures P-2, P-3 and P-4) rendered by the Revenue Authorities, whereby the land pertaining to the petitioner in spite of being small owner was allotted to respondent No.2-Baj Singh (tenant).

The case of the petitioner is that the land measuring 19 standard acres and 8 units was declared surplus in the hands of Karam Singh, father of the petitioner and respondent Nos.3 and 4 by the Collector, Gurdaspur vide order dated 16.03.1960. However, possession of the land was taken by the State Government during the lifetime of Karam Singh who died on 08.11.1982. Respondent No.2-Baj Singh who was tenant of Karam Chand had filed an application on 19.04.1982 for purchase of the surplus land.

Collector, Agrarian vide order dated 12.01.1995 (Annexure P-2) held that respondent No.2-Baj Singh (tenant) had exercised his right to purchase the land out of surplus land of Karam Singh and appeal of the petitioner was dismissed by the Commissioner (Appeals) vide order dated 03.07.1998 (Annexure P-3). Revision petition is also rejected.

In fact the arguments of Mr. Kuldip Sanwal, learned counsel appearing on behalf of petitioner is that since matter was alive and owing to the demise of Karam Singh, right of LRs have to be redetermined in view of the settled law vis-a-vis the surplus area and allotment of the independent units.

Per Contra, Mr. G.S. Dhaliwal, learned counsel appearing on behalf of respondent No.2 submits that land having been declared surplus during the lifetime of Karam Singh, father of the petitioner and, he died on 08.11.1982, the landowners did not assail the right regarding surplus land any further, it was only tenant who was pursuing the application. In regard to that, the landlord challenged the orders with regard to the claim of the tenant and, thus, in those proceedings, he cannot get the right redetermined by raising a plea of pendency of the matter.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submission of Mr. Kuldip Sanwal, for, it is settled law and also rendered by Full Bench judgment of this Court in *Sardara Singh and others Vs. The Financial Commissioner and others, 2008(2) RCR (Civil) 744*, that the case of all the LRs of the deceased if have been assailed and is pending under the Old Act i.e. Punjab Security of Land Tenures Act, 1953 and owing to

promulgation of the Punjab Land Reforms Act, 1972, it has to be redetermined. The facts noticed above would reveal that the question of the declaration of the land having declared surplus at the hands of Karam Singh stood crystallized before his death, therefore, it is only in the proceedings regarding the allotment of the land by the tenant who is stated to have deposited the money. The landlord assailed the right of redetermination. Such is not the position of the law. The aforementioned Act initiated by the landlord cannot be said to be an Act vis-a-vis the claim of big landowners regarding determination of the permissible area being pending.

Resultantly, orders under challenge, in my view, are perfectly legal and justified and do not call for any interference as the petitioner failed to assail the right of redetermination of the permissible area as the land having been declared surplus during the lifetime of Karam Singh.

No ground for interference is made out.

Accordingly, present writ petition stands dismissed.

Ratio decidendi culled out in Sardara Singh's case (Supra) would have definitely come to the rescue of the petitioner, had landlord been pursuing the matter with regard to determination of the surplus area. This is not the position in the instant case.

**15.03.2017**

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**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**