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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26402-2016 (O&M)
Date of decision : 11.05.2017

Inder Singh and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Radhe Shyam Sharma, Advocate
for the petitioners.

AMIT RAWAL, J. (ORAL)

CM-6754-CWP-2017

The application is allowed and the judgment and decree dated 29.11.1969 (Annexure P-8) is taken on record subject to all just exceptions.

CWP-26402-2016

The petitioners have sought the quashing of the orders dated 05.02.2014 (Annexure P-6) passed by the Financial Commissioner, Haryana/Respondent No.2, 16.11.2010 (Annexure P-5) of the Commissioner/respondent No.3 and as well as order dated 15.04.2010 (Annexure P-4) of the Collector/respondent No.4.

Mr. R.S. Sharma, learned counsel appearing on behalf of the petitioner submits that the petitioners are owners in possession of land measuring 127 kanals 8 marals Khasra No.408//24/2-25, 409//1-10/1-10/2-11-20-21, 410//1-2-3-10, 411//4-5-6-7-14-15, situated in revenue estate of

Village Gorakhpur, of their father/forefather Sangat, which had been declared surplus, but the same was exempted from surplus vide order dated 20.07.2009 i.e. order passed by the Prescribed Authority, Fatehabad (Annexure P-1). No appeal was preferred against this order by the State or any other affected party. Respondent Nos.6 to 10 moved an application dated 28.01.2010, before the Prescribed Authority, Fatehabad, for allotment of the land, but the same was dismissed vide order dated 08.04.2010 (Annexure P-3). The appeal preferred against the same before the Collector had been allowed vide order dated 15.04.2010 (Annexure P-4). The petitioner having acquired the knowledge of the aforementioned order preferred an appeal before the Commissioner, who vide order dated 16.11.2010 (Annexure P-5) dismissed the same and the revision petition preferred before the Financial Commissioner also met with the same fate. Respondent Nos.6 to 10 are not in possession of the suit land and their allotment was cancelled under Section 10 of the Haryana Utilisation of Surplus and other Area Scheme, 1976, thus, urges this Court setting aside the impugned orders, under challenge.

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

This Court while hearing the matter called upon Mr. Sharma, as to how the order dated 20.07.2009 (Annexure P-1) came to be passed in their favour, wherein they had raised the issues with respect to order dated 15.05.1961, passed by the Collector, Hisar, declaring surplus area measuring 200 kanals 15 marlas of Sanat S/o Lakhi Ram. Once the order had already been attained finality, the same could not be raked up after a gap of 48 years. No explanation has come forth. The findings arrived at by

the Financial Commissioner, in my view, are perfectly legal and justified as the matter pertained to two things one regarding the allotment to the allottees, much less, declaration of land as surplus at the behest of the petitioner. It is noticed that the moving of an application after 48 years for exempting the land from surplus, actually raised a doubt about the motives. Once the allotment had not been cancelled, there was no occasion for the respondent(s)/authorities to exempt the land in 2009 and the allottees were never made parties and therefore, there was a violation of the principles of natural justice. I am of the view that the exemption of the land from utilization without cancellation of the allotment is totally illegal, perverse, much less, arbitrary.

Mr. R.S. Sharma, has not given any explanation of not impleading the allottees and moved an application in 2009 against the order of 1961.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned orders, under challenge, much less, no ground is made out for interference and accordingly, the present writ petition is dismissed.

11.05.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**