

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

LPA No.331 of 2015 (O&M)

Date of Decision :16.05.2017

Gurjant Singh and others

....Appellants

Versus

State of Punjab and others

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN**

....

Present: Mr. Suman Jain, Advocate
for the appellants.

Mr. Manoj Bajaj, Addl.AG, Punjab
for respondents No.1 to 3.

Mr. R.K.Chauhan, Advocate for
Mr. Navjot Singh, Advocate
for respondents No.4,8 and 10.

Mr. Binerjit Singh, Advocate
for respondent No.5.

Mr. Pawan Kumar, Sr.Advocate with
Mr. Abhimanyu Batra, Advocate
for respondents No.5,6(i), 6(iii), 6(v),
7 (i) and 9.

....

MAHESH GROVER, J. (Oral)

This appeal is against the order dated 05.04.2011
passed by the learned Single Judge in the Civil Writ Petition and
order dated 20.02.2015 passed in the Review Application.

We may briefly touch upon the facts. The appellants claimed ownership of the disputed property as against the claim of the private respondents who claimed the same by virtue of the provisions of the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1954 (hereinafter referred to as 'the 1954 Act'). It was pleaded by them that there was a *Farman-i-Shahi* of 1947 and in accordance with that the occupancy tenants were given 2/3rd of the whole land whereas 1/3rd of the land was given to the landlords. The learned Single Judge had initially disposed of the writ petition in the absence of learned counsel for the appellant on 12.05.2010 but a review petition was filed which was disposed of on 05.04.2011 by observing as follows :-

“7. The issue that the tenants are in possession of whole of the property is not relevant. The issue is whether the 1954 Act could be attracted to a situation where there existed a *Farman-i-Shahi* that delineated the landlords and the tenants' rights and predicated to each a particular share. I find the judgment in **Atma Singh's case** completely covers the case and in terms of the judgment, there is already a civil court decree rejecting the contentions of some of the tenants that they had become the owners of the whole property. Although all the respondents here were not parties to

the civil court decree, I would find the reasoning of the civil court judgment is correct and would apply for other tenants as well.

8. The impugned order is set aside and the proceedings to the Under Secretary, dated 4th July, 1988 as affirmed in the subsequent proceedings of the Divisional Collector, dated 28.11.1988 and Sub-Divisional Collector, dated 20.12.1988, are, accordingly, quashed. The petitioners' 1/3rd share shall stand restored in the relevant revenue records relating to the property in dispute.”

Thus the *Farman-i-Shahi* of 1954 was accepted and 1/3rd share restored on the basis thereof. During the pendency of the review petition another application for review was filed claiming a *Farman-i-Shahi* of 1948 which was declined by the learned Single Judge by one of the orders impugned herein.

After hearing the learned counsel for the parties, we are of the opinion that not only is the present appeal barred by limitation but it is totally frivolous as the new *Farman-i-Shahi* of 1948 is sought to be introduced for the first time after 40 years despite the fact that the parties have been litigating since long. A civil suit was filed at an earlier point of time by the present appellants with similar pleas which was dismissed on 11.12.1984.

Even before the learned Single Judge this *Farman-i-Shahi* was never introduced and therefore we are of the opinion that the rights of the parties stood firmly crystalized in view of the civil court proceedings as also the proceedings before the learned Single Judge. 1/3rd share of the land which was subject matter of *Farman-i-Shahi* of 1947 was examined by the courts established the right of the landholders to that extent whereas 2/3rd share went to the occupancy tenants on the basis of the same *Farman-i-Shahi*. Besides the application filed by the appellants in the review petition itself was not maintainable as would also be an appeal against it. Be that as it may, if the facts are considered in totality, the present appeal has been filed after four years without any justification when the appellants were completely alive to the controversy. Apart from this, the claim is based on a document which never saw the light of the day despite the fact that the parties have been agitating their issues before various fora since long.

No ground. Dismissed.

(MAHESH GROVER)
JUDGE

16.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

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