

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA-650-1989 (O&M)
Date of Decision : 6.9.2018

Nachhattar Singh and others

....Appellants

vs.

Karnail Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. M.R.Verma, Advocate
for the appellants.

Mr. G.S.Bawa, Advocate
for respondents No. 1 to 6.

Dr. Sushil Gautam, DAG, Haryana.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellants.

The case as pleaded was that the appellants had purchased the land in dispute. At that time, it was not disclosed to them that the land had been declared surplus. After their sale, the land was allotted to the respondents No. 1 to 6 and the appellants had prayed for a declaration setting aside the allotment order. Their claim was that before the land was allotted they had been entered as owner in the revenue record and therefore, it was incumbent upon the State of Haryana to have issued notice to them before allotting the land to the respondents No. 1 to 6 in terms of the Full judgment of this Court in the matter of “**State of Punjab vs. Vinod Kumar. 1986 PLJ 161**”.

One of the grounds taken by the learned counsel for the respondents to deny their claim was that civil Court has no jurisdiction. The Trial Court held that once the land purchased by the appellants had been declared surplus it had vested in the State in the year 1971 in terms of Haryana Ceiling on Land Holdings Act, 1972 (hereinafter referred as 'the Act') and consequently, the judgment in the case of Vinod kumar (which incidentally was passed under the Punjab Law where there was no automatic vesting) would not apply.

The Trial Court noticed that in a stay matter which had gone up to the Additional District Judge, Sirsa, the counsel for the appellants had made statement at the bar that the land had been declared surplus prior to their purchase. Against the judgment and decree of the Trial Court the appellants filed an appeal. During the pendency of the appeal they moved an application for amendment of the plaint in which they brought out that actually the land in dispute had been declared surplus only on 10.8.1979 that is after their purchase and they wanted to delete the earlier statement about the previous declaration of surplus and incorporate the averment that the land had been declared surplus after the sale in their favour. The appellate Court dismissed that application holding that there was no explanation for the delay and proposed amendment would change the very nature of the case and proceeded to dismissed the appeal. Hence, the present appeal.

Learned counsel for the appellants has vehemently argued that the fact of the matter is that the land was declared surplus after the purchase by the appellants and consequently, they were entitled to have been heard

before allotment could be made.

In my considered opinion, the crucial question is whether the civil suit would lie. Under the Act the civil Court has no jurisdiction to go into the question of declaration of surplus. In the present case, no relief could have been granted to the appellants without deciding the issue whether the surplus area was rightly declared or not and merely by clever drafting the appellants cannot be permitted to overcome this specific bar of jurisdiction. In the circumstances, it is held that the suit was not maintainable.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

6.9.2018
anuradha

(AJAY TEWARI)
JUDGE

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