

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

CWP No.25754 of 2017
Reserved on : 19.09.2018
Pronounced on : 26.09.2018

Gurdial Kaur & others
State of Punjab & others

Versus

....Petitioners
...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Kamal Chaudhary, Advocate, for the petitioners.

G.S. SANDHAWALIA, J.

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, by the petitioners, who are legal representatives of Karnail Singh son of Bachan Singh, is to the order dated 29.10.2007 (Annexure P-11) passed by the Collector Agrarian, Sunam which has been upheld by the Commissioner on 21.05.2008 (Annexure P-12) and thereafter, by the Financial Commissioner on 13.02.2017 (Annexure P-13).

In principal, it was held that the land which had been declared surplus in the hand of Bachan Singh on 29.03.1960, which had been under challenge and the issue of hearing on the question of the new unit of the adult son under the Punjab Land Reforms Act, 1972, could not be done, especially keeping in view the order of the Division Bench of this Court passed on 25.08.1999 (Annexure P-5), in the earlier round of litigation. Resultantly, it was held that the proceedings of allotment of the land declared surplus should continue while setting aside the order dated 30.12.1999 (Annexure P-7) whereby a finding had been recorded that Bachan Singh was having a right to keep 13 hectares of land in his possession (standard). The order in principal has, thus, been upheld by the

Commissioner and the Financial Commissioner.

Counsel for the petitioners has, accordingly, argued that the possession, as such, had not been taken from the landowners and it had not been utilized and therefore, in view of the judgment of the Apex Court in **Ujjagar Singh Vs. Collector Bathinda 1996 PLJ 505**, separate unit should have been given to the petitioner-Karnail Singh.

The present case is the second round of litigation which has come to this Court and therefore, the facts would go on to show that the argument raised cannot be accepted. Initially, vide order dated 29.03.1960 (Annexure P-1) land measuring 10 SA-2/3 Unit was declared surplus by the Collector Agrarian (Reforms), Sangrur in the hands of Bachan Singh. Further, on account of consolidation proceedings, the same was modified in as much as 36 SA-3/64 Units were declared surplus and the details of the land which were taken away from the landowners were incorporated in the said order dated 01.02.1977 (Annexure P-2). Thereafter, allotment had been made on 13.05.1988 to the predecessor-in-interest of respondents No.5 to 7 and respondent No.8. The Commissioner dismissed the said appeals on the ground that same were filed only on 28.07.1988 and therefore, the land which had been declared surplus on 01.02.1977 could not be challenged after such a long delay. The matter was further taken up before the Financial Commissioner by filing 2 revision petitions which were dismissed on 30.10.1996 (Annexure P-4) wherein the issue of adult son of the petitioner was also raised which had also been raised before the

Commissioner and had been rejected on the ground that there was no evidence, as such, of the adulthood of Karnail Singh on the appointed day and the certificate also was of Sukhdev Singh whose name had allegedly been mentioned and resultantly, the revision petitions were dismissed.

Matter was brought before this Court and the Division Bench, vide order dated 25.10.1999, also rejected the claim of the separate unit of land in the hands of Karnail Singh, by noting as under:

“We have heard the learned counsel for the parties. The case of the petitioner is that he was an adult on the appointed date and thereby entitled to a separate unit of land after the enforcement of the Punjab Land Reforms Act, 1972. The birth certificate produced by the petitioner, however, does not indicate that it pertains to Karnail Singh, the petitioner. Even in the writ petition, the learned counsel for the petitioner, has not pointed out any other evidence to show that the petitioner was an adult on the appointed day. We find no merit in the writ petition. Dismissed.”

Petitioner, Bachan Singh, not being satisfied, filed another application on 08.12.1999, that possession of 43 kanals 13 marlas was still with him and nobody had occupied the land. The Collector Agrarian, at that point of time, allowed the said application on 30.12.1999 (Annexure P-7), without issuing notice to the allottees and directed that 43 kanals 13 marlas of land sanctioned and entered in the name of Government vide mutation No.7909 be entered in the name of the landowner. The review application was filed by the private-respondents No.5 to 7 before the Collector on 25.08.2005 and notice was issued on

20.03.2006 (Annexure P-9). The review application was forwarded to the Commissioner and who vide order dated 05.09.2006, directed that the matter needed to be reviewed and permission was, accordingly, granted to the Collector, who, thereafter, passed the order on 29.10.2007.

Thus, from the above sequence of events, it would be apparent that having lost on an earlier occasion before this Court and having raised the issue of adult son in CWP-7226-1997, the legal representatives of Karnail Singh cannot ask for reconsideration on this issue, time and again. Infact, the application filed before the Collector Agrarian dated 08.12.1999 was uncalled for and the same had wrongly been allowed, as such, on 30.12.1999, which the higher authorities had not rightly so approved and the said order was, accordingly, reviewed after seeking permission from the higher authorities and the same was set aside. Accordingly, no fault can be found in the concurrent findings recorded by the authorities below and the argument raised by counsel for the petitioners is not liable to be accepted, as the matter had already been settled by this Court on an earlier occasion.

In view of the above discussion, the present writ petition is dismissed in limine.

26.09.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No