

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

Civil Writ Petition No.975 of 2019
Date of Decision: January 16th, 2019

Jug Lal and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. N.R. Dahia, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 07.07.2015 (Annexure P-12) passed by the Financial Commissioner, Haryana, order dated 09.05.2012 (Annexure P-11) passed by the Commissioner, Rohtak Division, Rohtak, dismissing the appeal of the petitioners being hopelessly barred and the order dated 27.03.1979 (Annexure P-6) passed by the Allotment Authority, Rohtak, along with order dated 15.10.1984 (Annexure P-9) passed by the District Collector, Rohtak, modifying the order of the Allotment Authority, whereby the prayer of the petitioners for excluding the area purchased by the petitioners from the surplus pool of respondent No.2-Niranjan Kumar, big landowner, was not accepted.

2. It is the contention of learned counsel for the petitioners that the predecessors-in-interest of the petitioners were tenants of respondent No.2, the big landowner, in an area measuring 52 kanals 7 marlas of land situated in Village Sangahera, Tehsil and District Rohtak, which was purchased by them on 30.05.1973 and mutation was also sanctioned in their names. Niranjan Kumar-respondent No.2, the big landowner, filed Form I and II under Section 9 of The Haryana Ceiling on

declaration of his surplus before the Sub Divisional Officer (C), Rohtak, on 16.08.1976 and vide order dated 29.12.1977, 166 kanals were declared as surplus area. Subsequently, revenue officials reported that Niranjana Kumar-respondent No.2, the big landowner, has concealed the area of land owned by him in Village Beri Khas and Masudpur in the form submitted by him. The matter was referred to the District Collector, Rohtak, who vide his order dated 15.10.1984, declared 178 kanals 15 marlas as surplus area. Petitioners claimed a right of hearing prior to passing of the order dated 15.10.1984 and, therefore, preferred an appeal before the Commissioner, Rohtak, which was dismissed by the Commissioner, Rohtak, vide order dated 09.05.2012 (Annexure P-11). In the year 2004, petitioners came to know about the allotment of land to Tara Chand, who is now represented through his LR Ram Chand-respondent No.3. They filed a civil suit on 23.03.2004 and put forth their claim on the basis of they having purchased the land from the landlord being his tenants, in which they have been duped as it was fraudulently sold to them by the big landlord in the year 1973. He contends that the petitioners purchased the land under Section 18 of The Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as '1953 Act'). The civil suit was ultimately withdrawn on 03.03.2009 on the advice of the counsel that the jurisdiction of the Civil Court was barred under Section 26 of the 1972 Act. An appeal was thereafter filed before the Commissioner, Rohtak, on 25.03.2009 but the Commissioner dismissed the appeal vide order dated 09.05.2012 (Annexure P-11) on the ground of limitation as well as on merits leading to the filing of the revision petition before the Financial Commissioner,

Haryana, which has also resulted in dismissal vide order dated 07.07.2015 (Annexure P-12) upholding the orders passed by the authorities below.

3. Learned counsel for the petitioners states that the orders as passed by the authorities below cannot sustain as they are not based on proper appreciation of the legal position. Delay alone cannot be a ground for setting aside an illegal order. He contends that in the light of the fact that the petitioners are *bona fide* purchasers as they have purchased the land on 03.05.1973, their right should have been protected while declaring the land of respondent No.2-Niranjan Kumar, the big landowner, as surplus area vide order dated 29.12.1977 by excluding the land, which was purchased by the petitioners.

4. On a question put by this Court as to whether this order dated 29.12.1977 had been challenged by the petitioners by preferring any appeal, the answer obviously is no. However, the plea of the petitioners with regard to they being the *bona fide* purchasers of the land also cannot be accepted in the light of the fact that the petitioners admittedly were tenants of the big landowner and the respondents were aware of the fact that the proceedings under the 1956 Act have been initiated. It may also be noted here that the petitioners have not disclosed the factum that after the purchase of the land by them, they had filed a Suit No.162/CAR titled as Juglal and Om Parkash son of Chhaju Ram Versus State of Haryana in the Court of the Prescribed Authority, Rohtak, on 20.06.1979 under Rule 8 of the 1972 Act claiming therein the relief that the land which has been purchased by them be included in the permissible area of the big landowner but the said suit was decided against them by the Prescribed Authority vide

order dated 30.04.1979. No change was allowed in the surplus area and permissible area of Niranjana Kumar. This order has not been challenged and has attained finality, which has also not been challenged in the present writ petition.

5. As regards the contention of learned counsel for the petitioners that the petitioners were required to be heard at the time of passing of the order dated 15.10.1984 when the matter regarding the surplus pool of Niranjana Kumar by including the land in Village Beri Khas and Masudpur, Jhajjar, was being heard, is concerned, the same cannot be accepted in the light of the order dated 30.11.1979 passed by the Prescribed Authority, which has attained finality. That apart, the petitioners were not required to be heard in the light of the fact that the land which was purchased by the petitioners has already been adjudicated upon and further that their claim with regard to inclusion of the other areas of the other villages, which was not disclosed by the big landowner, having not been finalized, cannot be made the basis for giving the petitioners any opportunity of hearing. In any case, the order dated 15.10.1984 passed by the Collector, Rohtak, was not challenged by the petitioners till the filing of the suit on 23.03.2004, which is after a period of almost 20 years and that too, in a Civil Court, which did not have jurisdiction. After the withdrawal of the suit in the year 2009, appeal was preferred, which has rightly been considered by the Commissioner, both on merits as also on delay and has correctly dismissed the same being hopelessly time barred. The order, as has been passed by the Financial Commissioner also, being fully justified and in accordance with law, do not call for any interference.

6. Another reason why this Court refrains from exercising its writ jurisdiction is the delay on the part of the petitioners in approaching this Court as well i.e. more than three years after the passing of the order dated 07.07.2015 by the Financial Commissioner. Petitioners have been sleeping over their rights and at this belated stage, the relief which has been claimed by the petitioners in the present writ petition, cannot be permitted to be wrecked by reopening by setting aside the well reasoned orders passed by the authorities and that too, way back in the years 1979 and 1984, which remained unchallenged for unreasonably long period of time as recorded above.

7. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

January 16th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No