

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

**LPA No.1245 of 2019(O&M)
Date of decision: 24.07.2019**

Gurdial Kaur and others

... Appellants

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Gaurav Kalsi, Advocate, for the appellants.

ARUN PALLI, J.

This is an intra-court appeal under Clause X of the Letters Patent against an order and judgment dated 26.09.2018, rendered by the learned single Judge, vide which the writ petition preferred by the appellants has since been dismissed.

The facts that are required to be noticed are limited.

The appellants are the successor-in-interest of one Karnail Singh son of Bachan Singh. A land, measuring 10 Standard Acres 2/3 Units, was declared surplus in hands of Bachan Singh, pursuant to the order dated 29.03.1960, passed by the Collector Agrarian (Reforms), Sangrur. However, owing to consolidation in the village, the Collector (Agrarian), vide order dated 01.02.1977, suo motu revised the surplus area from 10 Standard Acres 2/3 Units to 6 Standard Acres 3/64 Units. And, eventually, vide order dated 13.05.1988, the Collector ordered the surplus land to be allotted to the two eligible applicants. As a result, two appeals were filed by Bachan Singh and Karnail Singh son of Bachan Singh before the Commissioner (Appeals) assailing the orders dated 01.02.1977 and 13.05.1988. However, both these

appeals were dismissed on 17.07.1995. Likewise, two separate revisions preferred by Bachan Singh and Karnail Singh were also dismissed by the Financial Commissioner on 30.10.1996. Whereafter, those orders were questioned vide a writ petition bearing CWP No.7226 of 1997, which too was dismissed by the Division Bench of this Court on 25.08.1999. Despite this, Bachan Singh filed yet another application dated 09.12.1999 seeking re-determination under Section 5(1) of the Punjab Land Reforms Act, 1972, as he was still in possession of the land measuring 43 kanals 13 marlas and the surplus area had not been utilized yet. Vide order dated 30.12.1999, the Collector (Agrarian) allowed the said application and the mutation qua the said land, that had already been sanctioned in favour of the Government, was directed to be revised. Being aggrieved, the private respondents No.5 to 7 moved a review application before the Collector on 25.08.2005, which was forwarded to the Commissioner and who in turn vide order dated 05.09.2006 accorded permission to the Collector to review the earlier order. Accordingly, the Collector (Agrarian) vide order dated 29.10.2007, cancelled the order dated 30.12.1999, and the allotment proceedings were ordered to continue. The said order was assailed by Karnail Singh by way of an appeal, which was dismissed by the Divisional Commissioner on 21.05.2008. Similarly, the revision petition filed against the said order was also dismissed by the Financial Commissioner on 13.02.2017. That is how, the appellants once again approached this Court vide CWP referred to above, which has been dismissed vide impugned order and judgment. Thus, this appeal.

We have heard learned counsel for the appellants and perused the record.

Learned counsel for the appellants reiterates the submission advanced before the respondent-authorities as also the learned single Judge: the land that was declared surplus remained in possession of the owners and was never utilized. Further, a copy of the birth certificate of Karnail Singh son of Bachan Singh was placed on record, but yet his claim for a separate unit being an adult son of Bachan Singh remained un-addressed.

Ex facie, the argument lacks conviction and cannot be countenanced. Record shows that the land in hands of Bachan Singh was declared surplus on 29.03.1960. However, no such claim that Karnail Singh son of Bachan Singh being an adult son on the appointed day was entitled to a separate unit was ever made. For the said order was not assailed further, the issue as regards determination of surplus area stood finalized. It was owing to the consolidation proceedings in the village, the Collector, vide order dated 01.02.1977, revised the surplus area, thus, this could hardly be a ground upon which the appellants could seek to re-open the determination of surplus area settled long back on 29.03.1960. Even otherwise, the order dated 01.02.1977 was challenged after 11 years in the appeal before the Commissioner, which was dismissed being time barred. Albeit, late Bachan Singh had claimed a separate unit for his adult son Karnail Singh, however, no evidence was brought on record to show that Karnail Singh had attained adulthood on the appointed date. Further, the certificate upon which the reliance was placed to claim a separate unit showed that it actually concerned one Sukhdev Singh and not Karnail Singh. Significantly, the Division Bench, in an earlier round of litigation, while dismissing the writ petition on 25.08.1999, preferred by Bachan Singh and Karnail Singh, had concluded:

“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.”

Upon being pointedly asked, if the issue as regards separate unit for Karnail Singh being an adult son on the appointed date was considered and rejected by the Division Bench, and the said order having been attained finality, how could the appellants rake up the same question again, in response learned counsel for the appellants pleads silence. Further, he failed to refer to anything on record to show if the conclusion recorded by the authorities below as also the learned single Judge was either contrary to record or suffered from any material illegality.

In the wake of the above, we too are dissuaded to interfere in the matter. The appeal being devoid of merit is, accordingly, dismissed.

**(Krishna Murari)
Chief Justice**

**(Arun Palli)
Judge**

24.07.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO