

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-456-2015 (O&M)
Date of Decision:06.03.2020

Binder Singh and another

. Appellants

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA

Present: - Mr.N.S. Wahniwal, Advocate,
for the appellants.

Ms.Ambika Sood, DAG, Punjab.

Mr.K.S. Sidhu, Sr. Advocate, with
Mr.Sushant Sharma, Advocate,
for respondents No.3 & 4.

Mr.Vishal Sharma, Advocate,
for respondent No.6.

RAKESH KUMAR JAIN, J.

This is an intra-court appeal against the order of learned Single Judge dated 04.04.2012 by which writ petition filed by respondents No.3 & 4 has been allowed.

In brief, respondents No.3 & 4 filed a petition for the issuance of a writ in the nature of certiorari for quashing the order dated 15.1.2009 passed by the Financial Commissioner by which order dated 6.10.2004 passed by the Commissioner, Faridkot Division, Faridkot and order dated 24.3.2003 passed by the Collector Agrarian, Faridkot, allowing the petitioners therein to retain 7 hectares of first quality land being major at the time of determination of surplus area case of their deceased predecessor-in-interest Iqbal Singh was set aside on

an application filed by the present appellants who were arrayed as respondents No.3 & 5 in the writ petition.

In brief, Amarjit Singh (Paternal Uncle) and Charanjit Singh (father of respondents No.3 & 4) filed a return in Form-A under Section 5 of the Punjab Land Reforms Act, 1972 [for short 'the Act'] on 17.1.1973. The Special Collector, Agrarian treated Charanjit Singh as minor and declared 4.09 hectares first quality land as surplus with Amarjit Singh and Charanjit Singh on 27.08.1984. The said order was set aside in appeal on 28.11.1985 and the matter was remanded back to the Collector, Faridkot for fresh determination of surplus area of Iqbal Singh in the hands of his heirs as the land was not utilized. The Collector, Agrarian declared 6.87 hectares first quality land as surplus while deciding the surplus area of Gamdoor Kaur (widow), Amarjit Singh and Charanjit Singh sons of Iqbal Singh vide its order dated 28.05.1987. The Revision Petition filed by Charanjit Singh was dismissed by the Financial Commissioner on 25.09.1996. The writ petition filed by Charanjit Singh was dismissed by this Court on 11.9.2001. Thereafter, the petitioners filed an application to the Collector to determine the surplus area of Iqbal Singh, who had expired on 20.03.1980, on the ground that at the time of death of Iqbal Singh the land was not declared surplus and his estate was inherited by his heirs by way of natural succession. The petitioners along with others were held entitled to retain first quality of land each separately vide order dated 24.3.2003 and there was no surplus area in their hands. A notice issued under Section 9(2) of the Act was withdrawn. The State Government did not approach any authorities against the order dated 24.03.2003 but Gajjan Singh (predecessor-in-interest of Binder Singh and Sukhwinder Singh) preferred an appeal before the Commissioner which was dismissed as not maintainable on 6.10.2004.

However, a revision petition preferred by Binder Singh, Sukhwinder Singh,

Jagtar Singh and Jumala Singh, who were arrayed as respondents No.3 to 6 in the writ petition, was allowed by the Financial Commissioner on 15.1.2009. The writ petition was thus filed by respondents No.3 & 4 herein which was allowed by the learned Single Judge vide his order dated 4.4.2012 by making the following observations: -

“The learned senior counsel for the petitioners has raised two fold contentions (i) Respondents No 3 to 6 have no locus standi to challenge the order dated 24.3.2003 (Annexure P-3) passed by the Collector, Agrarian and order dated 6.10.2004 (Annexure P-2) passed by the Commissioner, Faridkot Division, Faridkot, specifically when the State Government has not assailed the said orders; (ii) On the death of big landowner, his sons are entitled to fresh computation of land, which has been declared surplus but possession thereof has not been taken and the land has not been utilised by the State. The learned counsel for the petitioners has further contended that private respondents have no right and interest in the land in dispute as they have no locus standi to challenge the orders passed by the Collector, Agrarian and Commissioner, Faridkot Division, Faridkot before the Financial Commissioner since the

dispute with regard to declaration of the surplus land is between the State and the big landowner. The law of locus standi is a settled law that an aggrieved person can file an appeal and revision. The private respondents are neither tenant nor owner and even their names are not recorded in the revenue record, therefore, they are not aggrieved persons. The orders passed by the revenue authorities have become final. The inter se dispute is between the State Government and the big land owner. In such a situation, the contention of the learned counsel for private respondent that they had moved an application in the year 1973 for allotment of land, therefore, they are entitled to file the petition, is not sustainable. The issue with regard to declaration of surplus area had arisen only in the year 1984 when for the first time the area was declared surplus. No cause of action in favour of private respondents arose at that point of time when no area was declared surplus. Appeal and revision ultimately reached upto this Court and had been decided much later. The question of allotment will only arise when the entire surplus proceedings become

final and the applications are in invited by the State Government. In view of the above, I am of the definite view that the entertainment of the revision of the private respondents by the Financial Commissioner was without jurisdiction. So, first question is answered affirmative and it is held that private respondents are not entitled to file revision before the Financial Commissioner.

Second issue with regard to the effect of the death of big landlord during the pendency of surplus proceedings and decision of the surplus case is to be determined in the hands of his legal heirs. This preposition has been settled by the Full Bench of this Court in Ajit Kaur and others Versus Punjab State and others 1980 PLJ 354 and Ranjit Ram Versus Financial Commissioner, Punjab and Others 1981 PLJ 259 (FB), which have been subsequently followed in Ajmer Singh Versus State of Punjab 1992 PLJ 583, which clearly lay down that if the land was not utilized then the land in the hands of present owners, i.e. LRs of big landlord has necessarily to be assessed for computing the surplus area, if any. In the present case, it is

admitted that Iqbal Singh had died during the pendency of the proceedings. During all these years, the land was not utilized. The State counsel was directed to produce record but failed to produce regarding utilization of the land. That being so, the ratio of decision of Full Benches of this Court in Ajit Kaur and others (supra) and Ranjit Ram (supra) will be applicable.”

Aggrieved against the judgement of the learned Single Judge, a review application bearing RA-CWP-315-2012 was initially filed by the present appellants, which was dismissed by a detailed order passed by the learned Single Judge on 16.1.2015. Still aggrieved, the present appeal has been filed

Counsel for the appellants has contended that possession of the land in dispute was taken on 7.8.2002 and the rapat No.472 was entered. The same argument was raised in the review which has rightly been rejected by the learned Single Judge on the ground that no document was placed on record to show that the land in question had ever been utilized and has rightly been observed that if the land is not utilized then the land in the hands of LR's of a big land owner has to be necessarily re-assessed for the purpose of computing the surplus area, if any. In this regard, two decisions of the Full Bench of this Court rendered in the cases of **“Ranjit Ram Vs. The Financial Commissioner, Revenue, Punjab and others”** 1981 PLJ 259 & **“Sardara Singh and others Vs. The Financial Commissioner and others”** 2008 (3) PLR 297 and a decision of Supreme Court rendered in **“Ujjagar Singh (Dead) by LR's. Vs. The Collector, Bhatinda and another”** JT 1996(6) SC 713 have been referred to.

Counsel for the respondents has confronted the appellants with the question of their *locus standi* to maintain the appeal.

Counsel for the appellants has submitted that the appellants are the prospective allottees. This aspect has also been dealt with thoroughly by the learned Single Judge not only in the order passed in the writ petition but also in the review application.

Thus, looking from any angle, we do not find any merit in the present appeal for the purpose of interference in this case to set aside the orders passed by the learned Single Judge both in the writ petition as well as in the review application. Hence, the appeal is hereby dismissed though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

06.03.2020

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*