

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22418-2020 (O&M)

Krishan Lal

....Petitioner

VS

State of Haryana and others

....Respondents

CWP-23384-2021

Krishan Lal

....Petitioner

VS

State of Haryana and others

....Respondents

Date of Decision: 23.03.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. R.S. Mamli, Advocate
for the petitioner

Mr. Rajneesh Chadwal, AAG Haryana

Mr. Hemraj Bhardwaj, Advocate
for the caveator

SUDHIR MITTAL, J.

This judgment shall decide the above mentioned writ petitions as common questions of fact and law are involved therein.

The petitioner has been ordered to be evicted in the proceedings initiated in Form 'L' under the Punjab Security of Land Tenure Act, 1953 for non-payment of *batai*. Order of eviction is dated 24.12.2010. This was challenged by way of appeal but the same was dismissed. Revision before the Commissioner also did not succeed. Finally, the Financial Commissioner was approached by way of second revision petition but without success.

Learned counsel for the petitioner has argued that the authorities below were in error in ordering ejectment because the land owner was no longer the owner of the land in dispute as the same had been declared surplus and had been vested in the State of Haryana. For this purpose reference has been made to order dated 17.08.1979 passed by the then SDO(C)-cum-Allotment Authority, Jagadhari. This order was challenged by way of appeal but the same was dismissed vide order dated 16.01.1984 and revision there against was rejected vide order dated 01.10.1985. This order has become final as the same has not been challenged any further. In the year 1987 the land in dispute was purchased by the petitioner and installments thereof were also deposited. This conclusively shows that the petitioner was land owner and not the persons who had sought his ejectment. The next argument is that the land stood acquired by the State of Haryana and on this account also the ejectment petition was not maintainable. This fact has been taken into consideration by the then Commissioner, Ambala Division while passing order dated 14.08.2019 and the matter was remanded to the Collector for a fresh decision. These issues have not been examined or dealt with by the Financial Commissioner as well as the authorities below.

A perusal of the order of the Financial Commissioner shows that order dated 08.12.1983 passed by the Collector (Agrarian) declaring the land surplus was reviewed by him vide his order dated 07.02.1985. This order has been upheld upto the Hon'ble Supreme Court of India and, thus, it is incorrect to argue that the land owner who filed the eviction petition was no long the owner. At this stage I deem it appropriate to consider another argument raised on behalf of the petitioner which is that order of surplus was passed on 17.08.1979 and there was no occasion to pass another order dated 08.12.1983. This argument is being dealt with only to be rejected because order dated 17.08.1979 is not an order of declaration of surplus

dated 08.12.1983 was passed after the declaration of surplus area had become final. Admittedly, this order has been reviewed vide order dated 07.02.1985 and the same has been upheld upto the Hon'ble Supreme Court of India and, thus, obviously the argument is erroneous. The argument regarding ownership having been acquired by purchase is not supported by the record. Assuming the same to be factually correct, the purchase is deemed to be invalid once the land has been reverted to the land owner. The purchaser would only be entitled to refund alongwith interest if at all. The related argument regarding the land having been acquired and the matter having been remanded to the Collector for a fresh decision also deserves to be rejected as the order of the Commissioner has not been passed in these proceedings. The petitioner can not take advantage of an order passed in some other proceedings in this case.

No other point has been raised or argued. At this stage learned counsel for the petitioner wishes to raise another argument but I am refusing to hear the same because he has already been heard for over 45 minutes.

The writ petitions have no merit and are dismissed.

A photocopy of this order be placed on the file of other connected case.

March 23, 2022
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SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No