

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

CWP-15866-2003 (O&M)

Reserved on: 20.07.2023

Date of decision : 25.07.2023

Radha Krishan

.....Petitioner

versus

Financial Commissioner (Appeals-I) Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Gaurav Chopra, Senior Advocate with
Mr. Saurabh Jain, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Piyush Gagneja, Advocate
for respondents No.3(ii) and (iv).

Mr. Shalesh Sahi, Advocate for
Mr. Sandeep Punchhi, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

This petition has been filed by the petitioner praying for issuance of writ in the nature of certiorari for quashing the orders dated 29.05.1967, dated 02.04.1984, dated 15.06.1987 and dated 31.03.2003.

Learned Senior counsel for the petitioner has fairly submitted before this Court that the petitioner has approached this Court with the prayer as mentioned above. He has submitted that the case pertains to the issue regarding the surplus area. He has submitted that the impugned order under challenge had been passed under the provisions of The Punjab Security of Land Tenures Act, 1953. However, during the pendency of this petition, respondent No.3-Surja Ram had expired. He

has submitted that respondent No.3(ii) & (iv) had filed the application i.e. CM-7085-2023 under Section 151 of CPC with a prayer for placing on record the order dated 20.02.2015 passed by the District Collector-cum-Collector, Agrarian as Annexure R-3(ii)/1. He submits that as per the observations made by the District Collector, it had been observed that the owner of the land had expired on 21.12.1990 and surplus land had not been utilized, therefore, this surplus case cannot proceed under the Punjab Security of Land Tenures Act, 1953 (Old Act).

In the concluding para of the order passed by the District Collector, following observation has been made which read as under:-

“I have heard both the parties and have perused the record. After hearing both the parties and from perusal of record, I have come to the conclusion that the owner of land has expired on dated 21.12.1990 and the surplus land has still not been utilized. Therefore, this surplus case cannot proceed under The Punjab Security of Land Tenures Act, 1953 (Old Act). The learned Commissioner Ferozepur Division, Ferozepur through his order dated 31.01.2013 has already set aside the order of lower Court. Now this case is being consigned and Naib Tehsildar Agrarian Fazilka in given instructions that he should prepare the cases of legal heirs, and if the legal heirs are having excess land than the permissible land, then for declaring the land surplus, cases should be produced. Order pronounced. File after due compliance should be consigned to Record Room”.

Learned counsel submits that in view of the same, the proceedings in the present writ petition which were carried out under the provisions of The Punjab Security of Land Tenures Act, 1953 would not survive but the same if at all is to be carried out, would be carried out only under the provisions of Punjab Land Reforms Act, 1972 (for short

'the Act').

Learned counsel for respondent No.3 has admitted the submissions made by learned Senior counsel for the petitioner. He has submitted that in view of the attending facts and circumstances, the proceedings under the petition cannot continue and further proceedings if so required would be carried out as under the provisions of the Act of 1972.

Heard. All the counsel are *ad idem* that the impugned orders be *set aside* and the present petition be disposed of. Accordingly, in view of the consent of the parties, impugned orders dated 29.05.1967, 02.04.1984, 15.06.1987 and 31.03.2003 are *set aside*. However, the parties will be at liberty to avail their remedies as per law.

25.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No