

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26873-2023

Decided on 01.12.2023

Balwan Singh @ Balwan Singh Saharan

...Petitioner

Versus

Financial Commissioner (DB-II) and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek Suri, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 21.04.2015 (Annexure P-6) passed in ROR No.495 of 2006 by respondent No.1, whereby the order dated 24.05.2006 (Annexure P-4) passed by respondent No.2, order dated 05.09.2005 (Annexure P-3) passed by respondent No.3, order dated 31.05.2004 (Annexure P-2) passed by respondent No.4, have been affirmed and the revision filed by the petitioner has been dismissed.

It has been contended by learned counsel for the petitioner that father of the petitioner namely Devi Singh was a big landowner and was owner in possession of 457 kanal of land in village Anandpur Bhali, Tehsil and District Rohtak. Surplus proceedings in his case were carried out under the Punjab Security of Land Tenure Act, 1953. He has submitted that father of the petitioner was allowed to retain 30 standard acres land as his permissible area and 19 standard acres of land was declared as surplus by the Collector, Rohtak. He submits that the land was transferred by the father of the petitioner prior to 30.07.1958 and he gifted the land to the petitioner as well as his five brothers and they were declared as owner. He submits that the petitioner as well as his five brothers filed an application before the Tehsildar, Rohtak for separating

their khewat and the petitioner was given the land comprised in Khewat No.82 total land measuring 66 kanal 19 marlas. He submits that the petitioner filed a suit for declaration on 25.11.1969. He has submitted that State of Haryana promulgated the Haryana Ceiling on Land Holding Act, 1972 (for short, 'the Act') which came into force w.e.f. 24.01.1971. He has further submitted that as the land was never utilized by the State, hence, he filed an application under Section 8 of the Act before the Prescribed Authority, Rohtak, however, the same was dismissed by respondent No.4 vide order dated 31.05.2004. He submits that aggrieved by the same, the petitioner filed an appeal before respondent No.3, which was dismissed on 05.09.2005. He submits that again aggrieved by the same, the petitioner filed a revision petition before respondent No.2 which was decided on 24.05.2006 and the order passed by respondents No.3 and 4 were upheld. He has further submitted that the petitioner filed a revision petition under Section 18 (6) of the Act impugning the order passed by respondents No.2, 3 and 4, however, the same was dismissed vide impugned order dated 21.04.2015. Learned counsel for the petitioner has further submitted that the respondent-authorities have passed impugned orders on the basis of conjectures and surmises. He submits that it has been specifically contended by the petitioner that his father gifted the land prior to 30.07.1958 to the petitioner as well as his five brothers and they were declared owner, however, this fact was not taken into consideration and thus, the petition filed by the petitioner was illegally dismissed. He submits that even after the declaration of surplus land, the petitioner remained in possession of the same, which was given by his father in the family settlement. He submits that the petitioner was never dispossessed as such the land never vested in the State under the provisions of the Act. He submits that the respondent-authorities

have failed to appreciate the same and thus, have passed the impugned orders in violation of the law settled which deserve to be set aside.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner has approached this Court impugning the final order dated 21.04.2015 passed by the quasi judicial authority i.e. respondent No.1 and thus, the present petition has been filed after a gap of more than 8 years. From perusal of the record it is relevant that the big landowner had challenged the order of surplus dated 16.04.1960 upto Hon'ble Apex Court but the contention regarding the family settlement before 30.07.1958 was never raised. It is also found that the land declared surplus was already utilized and allotted to the eligible persons and the allottees had deposited the installments and thus, they were necessary parties but never impleaded by the petitioner. Once the land declared surplus has already been allotted to the eligible candidates and the same has been utilized, the contentions raised by the petitioner are without any merit. Even otherwise the impugned order was passed by the learned Financial Commissioner on 21.04.2015 which has been challenged by way of the present petition after an unexplained delay of more than 8 years, thus, this petition suffers from delay and laches as well. Thus, in the considered view of this Court the present petition fails on both counts i.e. delay and laches as well as on merits, consequently, the same is dismissed.

(RAJESH BHARDWAJ)
JUDGE

01.12.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No