

2024:PHHC:115494



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

***CWP-7341-1993 (O&M)***  
**Date of Decision: 02.09.2024**

RANBIR AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Gulshan Sharma, Advocate  
for the petitioners.

Mr. Navneet Singh, Senior D.A.G., Punjab.

**HARSH BUNGER, J.**

Petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari*, for setting aside the order dated 06.05.1993 (Annexure P-1) passed by the learned Financial Commissioner (Appeals) Punjab; order dated 12.06.1986 (Annexure P-2) passed by the learned Commissioner, Ferozepur Division, Ferozepur and also the order dated 31.05.1984 (Annexure P-3) passed by the learned Collector (Agrarian), Abohar.

2. Briefly, the surplus area case of predecessor in interest of the private respondents was decided by the learned Collector, under the provisions of the Punjab Land Reforms Act, 1972 (in short 'the 1972 Act') wherein 8.31.49 hectares of first quality land was declared surplus and an appeal filed by one landowner (Sahib Singh) was dismissed by the Appellate Authority vide order dated 04.06.1982.

2.1 It is the case of the petitioners that they along with their father-Sanwal Ram (since deceased) were cultivating 190 Kanals-3 Marlas of land as tenants under the private respondents (big landlord) since 1953-54. Petitioners claim that their possession over the afore-said land was uninterrupted. According to the petitioners, only 44 Kanals-10 Marlas of land was allowed as Tenants Permissible Area (in short 'TPA'), out of the afore-said total land of 190 Kanals-3 Marlas and their claim as regards the remaining land was rejected by the learned Collector (Agrarian), Abohar, vide order dated 31.05.1984 (Annexure P-3) on the ground that since they had purchased the rest of the land from the land owners vide registered sale deed dated 23.10.1981, therefore, they ceased to be tenants on the purchased portion of the land.

2.2 Being aggrieved against the afore-said order dated 31.05.1984 (Annexure P-3), the petitioners preferred an appeal before the learned Divisional Commissioner, which was also dismissed vide order dated 12.06.1986 (Annexure P-2).

2.3 A further revision petition filed by the petitioner before the learned Financial Commissioner, was also dismissed vide order dated 06.05.1993 (Annexure P-1).

3. In the afore-mentioned circumstances, the present writ petition has been filed before this Court for the relief, as noticed here-in-above.

4. Learned counsel for the petitioners submits that the impugned orders are wrong, perverse and are therefore, liable to be set aside. It is submitted that the claim of the petitioners has been rejected only on the ground that their father-Sanwal Ram, ceased to be a tenant on the land on account of his purchase of the land from the big land-owner. It is submitted

that mere purchase by tenant of land which is under cultivation of the tenants would not deprive them of their status as tenants. It is further submitted that the petitioners are poor persons and they have no other source of livelihood except the land under their possession, which according to the petitioners, is continuing since 1953-54. It is next contended that the case of the petitioners is covered by a judgment dated 18.04.1975 (Annexure P-4) rendered by this Court in **CWP-716-1966** titled as **Munshi Ram and another vs State of Punjab etc.** Accordingly, it is prayed that the impugned order be set aside.

5. Per contra, learned counsel for the respondent-State has opposed the submissions made on behalf of learned counsel for the petitioners by submitting that the petitioners have not come to the Court with clean hands. It is submitted that petitioner No.3 is not the son of Sanwal Ram, rather he is the son of Smt. Bakhtavri daughter of Sanwal Ram and he had become owner through Will dated 23.04.1984 (Annexure R-1). It is further submitted that the petitioners have no *locus standito* file the present writ petition as Sahib Ram (land owner) is the owner of 1/5<sup>th</sup> share of the land in question; therefore, the petitioners cannot be entitled to claim the land measuring 190 Kanals-3 Marlas as their TPA. It is further submitted that the petitioners are not legally entitled for TPA. As per report of the Field Staff, Sanwal Ram cultivated 44 Kanals-10 Marlas, out of which, Sahib Ram has 1/5<sup>th</sup> share. As regards the rest of the land under cultivation of Sanwal Ram, it was reported by the Patwari that he had purchased the land through Registry and had given this land to Teg Ram, Dattu and Ranbir etc. It is further submitted that according to the Revenue Records, only Sanwal Ram, was tenant of the land measuring 44 Kanals-10 Marlas as on the appointed date i.e. 24.01.1971, so he is entitled for TPA only as regards the land which

was under his possession as tenant since 1970-71. It is still further submitted that according to the Revenue Records, the petitioners were not tenant at Will since 1953-54 on the land in question rather they became tenants on 23.04.1984. The claim of the petitioners that they are poor persons, was also denied by the respondent-State and as regards the reliance placed by the petitioners upon the judgment rendered in **CWP-716-1966**, it was submitted that the same was not applicable in the attending circumstances. Accordingly, prayer for dismissal of the writ petition has been made.

6. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

7. In the present case, the learned Collector, Fazilka, vide its order dated 09.02.1977, declared 8.31.49 hectares of first quality land of Sahib Ram, as surplus under the 1972 Act. A further appeal by Sh. Sahib Ram (land-owner) was dismissed by the learned Additional Commissioner, Ferozepur, vide its order dated 04.06.1982. It transpires that the present petitioners challenged the order dated 09.02.1977 before the learned Commissioner, who vide its order dated 17.01.1984, remanded the case to the learned Collector (Agrarian), Abohar for deciding the case afresh after giving opportunity of hearing to Sanwal Ram etc. Upon remand, the learned Collector (Agrarian), Abohar called for a report from the Field Staff; whereupon, the concerned Patwari reported that Sanwal Ram was cultivating 44 Kanals-10 Marlas of land.

8. The learned Collector (Agrarian), Abohar, vide its order dated 31.05.1984 (Annexure P-3), decided the remand case by observing as under :-

*“Record was perused and the arguments were heard from the advocate as well as Naib Tehsildar*

*(Surplus) from the state side. As per record Sanwal Ram was cultivating 190 kanals 30 marlas of land in 1970 as tenant under Sarve Shri Balram, Daulat Ram, Lal Chand, Sahib Ram, Raja Ram etc. out of this Sahib Ram land owner has 1/5<sup>th</sup> share. As per report of the field staff Sanwal Ram now cultivating 44 kanals 10 marlas and out of which Sahib Ram has 1/5<sup>th</sup> share. Regarding rest of the land under cultivation of Sanwal Ram, the patwari has reported that he has purchased the land through registry and has given this land to Sarve Shri Teg Ram, Dattu Ram, Ranbir etc. The claims of Teg Ram, Dattu Ram, Ranbir have already been rejected by the Commissioner Ferozepur vide appeal No.J.A./N.A./695 (82). Sanwal Ram is cultivating 44 kanals 10 marlas of land since 1970. Out of this 1/5<sup>th</sup> share of Sahib Ram i.e. 8 kanals 18 marlas is Nehri. The first quality of this land is 0.24.53 hectares. This land is given to Sanwal Ram as his tenants permissible area. After leaving tenants permissible area of Sanwal Ram rest 8.06.96 hectares of land is declared as first quality surplus area. Regarding tenants permissible area of the tenants is list 'A' and regarding surplus the list is 'B' is enclosed. To utilise the surplus area, proceedings under section 9(1) be initiated.*

*Order is announced.”*

9. An appeal filed by the petitioners before the learned Commissioner, Ferozepur Division, Ferozepur was disposed of vide order dated 12.06.1986, by observing as under :-

*“I have heard the counsel for the appellants and the ADA on behalf of the State.*

*The declaration filed by Sahib Ram was taken up and Collector Agrarian, Fazilka determined on 9.2.1977 that Sahib Ram held land measuring 879 K 5 M (19.2925) in village Dhinganwali, Shergarh Waryam Khera and Sherwala on the appointed day. 42 K 6 M*

*(1.1776) was surplus under the old Act and was reduced (I hope Collector Agrarian, Abohar, has taken steps to vest the same in the State). Allowing 9. hectares for a family of 7, the Collector declared 8.149 hectares as surplus. Though Sahib Ram was a co-shares with four others, the Collector declared specific Khasra numbers as surplus (total 380-K 1 M). The appeal preferred by Sahib Ram was dismissed on 4.6.1982 by Additional Commissioner and as such the order has become final for all intent and purposes, against the big landowner. Teg Ram son of Arjun Ram, Datta Ram s/o Sanwal Ram, Ranbir Singh son of Sanwal Ram and Sanwal Ram preferred an appeal against the determination of surplus area of Sahib Ram claiming to be tenants entitled to TPA. The Commissioner did not find any other person as bonafide tenant, rejected their claims and held that Sanwal Ram was the only one who should be heard by the Collector. The Collector Agrarian, Abohar, has passed the impugned order thereafter and hence the present appeal.*

*I find that apart from Sanwal Ram his two sons are also appellants. I am afraid these two persons have no locus standi to file the appeal as their contentions stand rejected by the Commissioner, Ferozepur on 17.1.1984. The present order shall not confer any right or benefit to the sons of Sanwal Ram.*

*The Collector Agrarian, Abohar, got a chhant prepared afresh in which he found that Sahib Ram was cultivating only 44 K – 10 M of land. No other land was under his cultivation at present. Having his finding on this Chhant, he allowed only 1/5<sup>th</sup> share out of 44 K – 10 M as TPA and kept remaining area as surplus. I have seen the Chhant prepared by the Patwari and copies of Khasra Girdawari presented by the counsel for the appellant. Regarding 44 K 10 M declared surplus, there is*

*no doubt that Sanwal Ram is a tenant on the land since 1970. As Collector Fazilka, on 9.2.1977 selected specific khasra numbers (and not a share in joint holding as surplus), Sanwal Ram becomes the tenant under Sahib Ram for the entire 44 K 10 M of land.*

*However, I agree with the finding of fact by Collector Agrarian, Abohar, that in Rect. No.190-191 (the khasra numbers referred to by counsel). Sanwal Ram was no longer a tenant. The land was purchased by Sanwal Ram and his sons from the big land owner. As such Sanwal Ram ceased to be a tenant and is not entitled to any declaration of TPA of Rect no.190 and 191. Sanwal Ram has by his own conduct and action ceased to be continuous tenant before determination of TPA and cannot make any such claim. This claim of Sanwal Ram is rejected being not in cultivating possession of various khasra numbers in Rect. No.190 and 191. The purchase made by him and his sons hit by Section 11(5) of the Act and such purchase suffer 21.1.71 is to be ignored for the purposes of Land Reforms Act.*

*The appeal is partly accepted and Sanwal Ram is declared entitled to 44 K 10 M as TPA. He is directed to appear before the Collector Agrarian, Abohar, on 15.7.1986 who will make the necessary order by amending Annexure 'A' attached to order dated 9.2.1977."*

10. A further revision petition filed by the petitioners before the learned Financial Commissioner was dismissed vide order dated 06.05.1993 (Annexure P-1)

11. From a perusal of the findings returned by the authorities below, it is evident that the petitioners were not the tenants on the land regarding which, they are claiming T.P.A. Once the petitioners were not tenants on the land on the appointed date under the 1972 Act, therefore, they

are not entitled to claim the T.P.A. Furthermore, it appears that the claim of the petitioners was rejected earlier on 17.01.1984 by learned Commissioner, Ferozepur in appeal filed by the petitioners along with their father Sanwal Ram, wherein it was held that the petitioners have no *locus standi*. Petitioners have conveniently concealed the said order dated 17.01.1984.

11.1 A Division Bench of this Court in ***Jagraj Singh and others v. State of Punjab and another***, 1978 PLJ 59., has held as under:-

*"A plain reading of sub-section (1) of sections 4 and 7 leads to a clear conclusion that the Act does envisage the concept of tenants' permissible area and a person who does not otherwise own land, has a right to reserve and retain land in his occupation as a tenant as tenants' permissible area subject to the extent detailed in sub-section (2) of section 4. Under sub-section (1) of section 5 only such tenants of the land are to be recognised for the purposes of the Act who occupied it as such on the appointed day, which under sub-section (1) of section 3 is 21st (24th) of January, 1971. In view of these clear provisions in the Act, the argument of the learned counsel for the State that the petitioners cannot assert their claim qua any land of respondents Nos. 3 to 5 as tenant's permissible area under the Act cannot be sustained.*

*(emphasis supplied)"*

12. Still further, learned counsel for the petitioners has failed to dislodge the finding of facts recorded by the authorities below in the impugned orders nor it has been indicated as to how the impugned orders are patently illegal or perverse.

13. As regards the reliance placed upon by the petitioners in ***Munish Ram's*** case (supra), it is observed that the said judgment is distinguishable on facts as the same has been rendered under the provisions

of the Punjab Security of Land Tenures Act, 1953 whereas, the present case has been dealt with under the provisions of the Punjab Land Reforms Act, 1972.

14. In view of the afore-mentioned facts and circumstances, there is no scope for any interference by this Court in the impugned orders, resultantly, the instant writ petition fails and the same is, accordingly, dismissed.

15. All pending application/s, if any, shall also stand closed.

**September 02, 2024**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

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