

2024:PHHC:007884
106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-454-2018 (O&M)
Date of decision: 20.01.2024

Smt. Saroj (since deceased) through her Legal Heir and others

....Appellants

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Abhimanyu Singh, Advocate for the appellants

Ms. Vibha Tewari, AAG, Haryana and
Mr. J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. This Regular Second Appeal has been filed alongwith an application for condonation of delay of 1726 days in filing the appeal. In the application, the appellants have asserted that they were not aware of the remedy of filing the appeal and they are poor persons, having no means to engage a counsel for filing the appeal. It is evident that the appellants are successors in interest of the big landowners. Their predecessor-in-interest was found to be holding the agricultural land beyond the ceiling limit as prescribed under the Haryana Ceiling of Land Holdings Act, 1972 (hereinafter referred to as '1972 Act'). Moreover, they were represented by a counsel before the trial court as well as the First Appellate Court. Hence, the appellants have failed to furnish sufficient explanation for seeking condonation of colossal delay of 1726 days, in filing the appeal.

2. This Court has also heard the submissions on merits of the appeal.

3. This appeal has been filed against the concurrent findings of fact arrived at by the courts below while dismissing the plaintiff's suit for the grant of decree of declaration that they are owners in possession of 16 kanals of land, which is claimed to be cultivated through a Society constituted for the purpose of carrying out the joint farming.

4. Both the courts have found that late Sh.Raghubir Singh was a landlord holding big chunks of land. He left behind two sons namely Sh.Sheoraj Singh and Sh.Rattan Singh. On enforcement of the 1972 Act, notices were issued to Sh.Sheoraj Singh and Sh.Ratan Singh to submit their declaration form. Sh.Sheoraj Singh submitted his declaration form and 481 kanals 17 marlas was declared surplus as it was found beyond the ceiling limit, however, Sh.Rattan Singh, predecessor-in-interest of the appellants did not file the declaration form. Ultimately, the competent authority vide order dated 29.01.1991, declared that Sh.Rattan Singh and his wife Smt. Gyanwati were owners of 345 kanals 6 marlas land beyond the prescribed ceiling limit. It was further stated that the alienation made after the appointed date would be included in the land holding of the big landowners. Against the order passed by the Collector, an appeal was filed, which was allowed and the case was remanded back. Once again, an opportunity of hearing was given to all the interested parties and ultimately, the order was passed on 21.07.1994, declaring 345 kanals 6 marlas of land as surplus.

5. The plaintiffs filed this suit in the year 2004. Both the courts have found that the plaintiffs and their predecessors-in-interest were aware of the proceedings and the civil court has no jurisdiction to try the case unless it is proved that the procedure, as prescribed under the Act, has not been followed.

6. Learned counsel representing the appellant contends that the plaintiffs were not aware of the orders passed and therefore, the courts have erred. As already noticed, both the courts have concurrently found that despite notice Sh.Rattan Singh and Smt.Gyanwati failed to submit their declaration form, although, the brother of Rattan Singh namely Sheoraj Singh filed the same.

7. In view of the aforesaid facts and discussion, no ground to interfere is made out.

8. Hence, dismissed accordingly.

9. All the pending miscellaneous applications, if any, are also disposed of.

20.01.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE