

Banta and ors. Vs. State of Punjab and ors.

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Court : Punjab and Haryana

Decided On : Apr-24-1997

Reported in : (1997)117PLR841

Judge : S.C. Malte, J.

Acts : [Punjab Security of Land Tenures Act, 1953](#) - Sections 24

Appeal No. : Civil Writ Petition No. 2631 of 1980

Appellant : Banta and ors.

Respondent : State of Punjab and ors.

Advocate for Def. : Sushant Maini, Deputy Adv. General

Advocate for Pet/Ap. : Kanwaljit Singh, Adv.

Disposition : Petition allowed

Judgement :

S.C. Malte, J

1. The petitioners have filed this writ for quashing the orders passed by the revenue authorities, whereby it was ordered that the issue pertaining to the land in excess of the permissible limit under the [Punjab Security of Land Tenures Act, 1953](#) (hereinafter to be referred as, the Act of 1953). be considered after serving

an intimation in Form 'F' prescribed under the Rules framed under the said Act of 1953.

2. Respondent 5 Ranjit Singh (since deceased represented by LRs) was the landowner of certain pieces of land situated in, two different villages. In the course of proceedings under the consolidation of holdings, it transpired that he held 24 standard acres land in excess of the ceiling. Thereupon, on 2.8.1960 such an order was passed by the Collector, Agrarian Reforms, functioning under the Act of 1953. Papers before me indicate that respondent 5 Ranjit Singh was called upon to indicate the choice of the land which he wanted to retain out of the total land with him; so that the surplus land could be appropriated as per the provisions. It is contended by the petitioners that the land in dispute was thus found surplus and thereupon it was allotted to them as per Section 18 of the Act of 1953. This allotment took place on various dates during 1969. Thereafter in 1974 there was an occasion when these tenants filed 2 civil suit against respondent 5 Ranjit Singh and others to seek a declaration that they are the owners in possession, and also sought consequential relief that Ranjit Singh and others should be restrained from interfering with the possession of these tenants/plaintiffs. These suits were decreed.

3. After catena of litigation between the two sides, the said Ranjit Singh respondent 5 filed appeal on 1.3.1976 Under Section 24 of the Act of 1953. Pertinent to note that in that appeal he has shown the State as the only respondent. None of the tenants were impleaded in the appeal. That appeal was in respect of the order dated 2.8.1960 passed by the Collector, Agrarian whereby he had declared 24 standard acres (9-1/2 units) as surplus land with Ranjit Singh (respondent 5). In that appeal Ranjit Singh made a grievance that intimation in Form 'F' prescribed under the Rules framed under the said Act had not been served upon him and that he was entitled to file an appeal by condoning delay on the ground of absence of service of such intimation. He further claimed that the matter regarding ascertainment of the surplus land should be again considered. The Commissioner, Jullundur Division, who decided that appeal, condoned the delay on the reasoning that there was no documentary material to show that the intimation in Form 'F' as contemplated under the said Rules had never been

served on landlord Ranjit Singh (respondent 5). He further directed that the case for determination of the surplus area should be heard afresh after serving intimation in Form 'F'. This decision was dated 12.12.1977.

4. When the petitioners learnt about that decision, they preferred a revision before the Financial Commissioner, Taxation, Punjab. He observed that the service of intimation in Form 'F' under the said provision was a statutory requirement, and that the Commissioner had better ordered the service of such intimation. On this reasoning he found no substance in the revision, and dismissed it by order dated 8.5.1980.

5. The petitioners have now sought the quashing of both these decisions dated 12.12.1977 and 8.5.1980. The counsel for the petitioners brought my attention to the various documents which show that during the long span commencing from 1960 till respondent 5 Ranjit Singh filed the appeal before the Commissioner on 1.3.1976, the said Ranjit Singh never came forward to challenge the decision by which the land was held surplus on 2.8.1960. My attention was also invited to the various documents to show that by following due course of procedure, this land was allotted to the respective tenants. It was submitted that the revenue authorities have now erred in concluding that the service of notice in Form 'F' under the said provision had not been served on respondent No. 5. It was further submitted that as such the service of such intimation was only a formal intimation of the conclusion already drawn; and, in no way, the absence of which could give right to re-open the adjudication of the surplus land that was done long back in 1960. He brought my attention to the various provisions under the [Punjab Security of Land Tenures Act, 1953](#), and the rules framed thereunder.

6. Form 'F' is provided for compliance with the requirements as contemplated under Rule 6 framed under the said Act of 1953. Rule 6 provides procedure for assessment of the surplus area with the land-owners and the tenants. First two clauses of it pertain to information prepared by the Patwari and its examination by the Circle Kanungo in order to get ready for proceeding further to consider the extent of surplus land. Clause 3 of it contemplates notice and hearing to the persons concerned. Clause 4 pertains to certain information which is required to

be supplied by the land-owner in a particular form. Clauses 5 and 6 then pertained to the assessment of the surplus land. After that is done, the Collector prepares an intimation in Form 'F' and serves it to the land-owner or tenant. That service is effected as per the provisions of Section 90 of the Punjab Tenancy Act, 1887. Clause 8 of that rule provides the right of appeal within 60 days from the date of service of Form 'F'. It may be noted that in the course of such proceeding, the land-owner is required to give certain information in Forms A, C and E. At the same time, the tenant is also required to give information in form B and C under these rules. It is only after getting such information under Clause 4 of Rule 6, that further steps are taken for adjudication of the surplus area. The intimation in form 'F' is the last stage in this process. A close examination of these forms - A, B, C and E which these landlords and tenants are required to furnish in the course of proceeding for ascertaining surplus land, would indicate that the landlord is required to submit information in respect of land which he wanted to retain in the event he is found to have surplus land. Similarly the tenant is required to give information as regards his occupancy rights. Column 3 in form A submitted by the land-owner contemplates that the landowner should show the particulars of the area reserved, if any, for his self-cultivation. That information is required to be supported by an affidavit in form 'C'. Respondent 5 while submitting appeal before the revenue officer on 1.3.1976, in which the impugned order was passed, had not made a grievance that he was never Called upon to submit such information in forms A, B and C. His only grievance is that information in form 'F' has not been supplied. On that premise he builds a case for condonation of delay in filing appeal before the revenue officer. The question regarding service of intimation in form 'F' therefore, deserves consideration.

7. A reading of the impugned order Annexure P10 dated 12.12.1977 passed by the Commissioner, Jullundur Division indicates that the counsel for the State had invited the attention of the Commissioner to the fact that intimation in form 'F' was duly issued vide No. 2037-38 dated 13.8.1960. That aspect did not weigh with the Commissioner on the ground that there is no documentary evidence that such an intimation was served. In the context of that it may be noted that prior to filing of the appeal on 1.3.1976, the tenants had already moved the revenue officers Under Section 18 of the said Act for an adjudication of the entitlement of allotment of

these pieces of land to the respective tenants on the ground that was available land for allotment after the surplus area was declared. In that matter, respondent 5 Ranjit Singh had put in appearance and thereupon decision in those cases was passed. In case of petitioner-tenant Jaula, the allotment order was dated 30.5.1970 (Annexure P-3). In case of the petitioner Banta the allotment order is dated 30.7.1970. In case of tenant petitioner Jagta, the allotment order is dated 30.7.1970, as it could be ascertained from the copy of the judgment passed in the civil suit in which the said Jagta had sought a declaration with consequential relief that landlord Ranjit Singh (respondent 5) and others should not interfere with the ownership and possession of the said Jagta. The suits were decreed holding these respective tenants owners on the basis of allotment of the surplus land to them. Under these circumstances, it is not possible to say that respondent 5. Ranjit Singh was not aware of the decision under which surplus land was determined long back in 1960. The Commissioner and the Financial Commissioner committed a grave error in arriving at the conclusion that intimation in form 'F' under these rules had not been served on the landlord. They have also committed error in ignoring the sequence of events which clearly indicated that respondent 5 Ranjit Singh knew very well the. passing of, the orderly which surplus land was adjudicated, I, therefore, allow this writ petition with costs and set aside the impugned order Annexure P-10 dated 30.12.1977 passed by the Commissioner, Jullundur Division and Annexure P-11 dated 8.5.1980 passed by the Financial Commissioner Taxation, Punjab.