

Barsala Singh Vs. the State of Punjab and ors.

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Court : Punjab and Haryana

Decided On : Dec-10-2002

Reported in : (2003)134PLR22

Judge : N.K. Sodhi, J.

Acts : [Punjab Land Reforms Act, 1972](#); [Pepsu Tenancy and Agricultural Lands Act, 1955](#) - Sections 32B

Appeal No. : Civil Writ Petition No. 2240 of 1983

Appellant : Barsala Singh

Respondent : The State of Punjab and ors.

Advocate for Def. : Ashok Aggarwal, Addl. A.G., Punjab for Respondent Nos. 1 to 3

Advocate for Pet/Ap. : P.N. Aggarwal, Adv.

Disposition : Petition allowed

Judgement :

N.K. Sodhi, J.

1. Ruldu Singh respondent was a big land owner. He did not file any return in Form VII-A as required by Section 32-B of the [Pepsu Tenancy and Agricultural](#)

[Lands Act, 1955](#) (for short the Pepsu Act). The case was taken up by the Collector, Agrarian who by his order dated 9.1.1961 declared -13.19. standard acres as surplus in the hands of Ruldu Singh. Smt. Chand Kaur, Parsin Kaur and Chetan Kaur widows of Gandha Singh father of Ruldu challenged the order passed by the Collector. Their appeal was dismissed on 1.1.1963. Thereafter, they filed a revision petition before the Financial Commissioner which too was dismissed on 24.4.1963. The Financial Commissioner while dismissing the petition made the following observations :-

'If the facts are as stated by the petitioner's counsel, then he may present an affidavit to the Collector duly supported by the copies of the revenue record, who then will give such consideration to the claims of the parties as warranted by law.'

In pursuance to the aforesaid observations, the three widows of Gandha Singh moved an application before the Collector and staked their claim in the land in dispute. Their claim was rejected as they failed to prove that they were in possession of any part of the land in lieu of maintenance. The three widows along with Ruldu Singh filed Civil Writ Petition 1187 of 1964 in this Court challenging the orders of the Collector and the Financial Commissioner. This writ petition was allowed by a learned single Judge on 23.5.1969 and the order dated 9.1.1961 declaring 13.19 standard acres as surplus in the hands of Ruldu Singh was set aside and the case remanded. The order of the Financial Commissioner upholding the said order was also set aside. The Collector, Agrarian was directed to decide the surplus area case of Ruldu Singh afresh. Letters Patent Appeal No. 409 of 1969 filed by the State Government was dismissed on 18.6.1971.

2. In pursuance to the directions issued by the learned Single Judge, the Collector, Agrarian decided the surplus area case of Ruldu Singh afresh after affording an opportunity of hearing to all concerned and by order dated 10.4.1974 rejected the claim of the three widows and declared 13.19 standard acres as surplus in the hands of Ruldu Singh as was earlier declared by him. It may be mentioned that Ruldu Singh had gifted 157 kanals 7 marlas of his land (hereinafter referred to as the gifted land) in favour of Bar-sala Singh son of Sunder Singh by a registered gift deed dated 11.5.1970. Barsala Singh was also shown as a tenant under Ruldu

Singh. Since the gifted land was included in the surplus area declared in the hands of Ruldu Singh, Barsala Singh felt aggrieved by the order dated 10.4.1974. He filed an appeal before the Commissioner, Ferozepur Division who remanded the case for a fresh decision with a direction that the claim of the three widows shall not be reopened. The Collector, Agrarian recorded the statements of some of the witnesses and rejected the claim of Barsala Singh by order dated 13.7.1977. Still not satisfied, he preferred an appeal before the Commissioner who too by his order dated July 28, 1982 dismissed the same. It is against these orders that the present petition has been filed under Article 226 of the Constitution.

3. Having heard counsel for the parties and after going through the impugned orders, I am of the view that the writ petition deserves to succeed. It would be clear from the facts stated above that the surplus area case of Ruldu Singh respondent was finally decided by the Collector on 13.7.1977 copy of which is Annexure P-3 with the writ petition. Prior to this, 13.19 standard acres had been declared surplus in the hands of Ruldu Singh by order dated 9.1.1961 which was set aside by this Court in Civil Writ Petition 1187 of 1964 and the case remanded to the Collector for fresh decision. In other words, the surplus area proceedings under the Pepsu Act had not been finalised and were pending on the date when the [Punjab Land Reforms Act, 1972](#) (for short the 1972 Act) came into force. In this view of the matter, the surplus area had to be declared in the hands of the land owner only under the provisions of the 1972 Act and not under the Pepsu Act. This was so held by a Full Bench of this Court, in *Ranjit Ram v. The Financial Commissioner, Revenue, Punjab and others*, 1981 PLJ 259 which view was approved by the Supreme Court in *Ujjagar Singh (dead) by L.Rs. v. The Collector, Bhatinda and another*, 1996 PLJ 505. Since the surplus area in the present case has been declared under the Pepsu Act, the impugned orders passed by the Collector and the Commissioner will had to be set aside which I hereby do and remand the case to the Collector for a fresh decision of the surplus area in the hands of Ruldu Singh in accordance with the provisions of the 1972 Act. Since I have held that the surplus area had to be declared under the 1972 Act, it is not necessary for me to deal with the other contentions raised by Shri P.N. Aggarwal, learned counsel for the petitioner. Similar view was taken by a Division Bench of this Court in *Paramjit Singh and others v. State of Punjab and others*, 1997(2) PLJ

411.

4. In the result, the writ petition is allowed, the impugned orders dated 13.7.1977 and 28.7.1982 are set aside and the case is remanded to the Collector, Agrarian, Ram-pura Phul to decide the surplus area case of Ruldu Singh respondent afresh in view of the observations made herein above. Parties through their counsel have been directed to appear before the Collector, Agrarian on January 27, 2003 for further proceedings. There is no order as to costs.

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