

Ujagar Singh and Others

Vs

State of Punjab and Others

Civil Appeal No. 2735 of 1981

(K. Ramaswamy, G. B. Pattanaik JJ)

25.07.1996

ORDER

1. Substitution allowed.

2. This appeal by special leave arises against the order of the Division Bench of the Punjab and Haryana High Court made on 20-9-1978 in LPA No. 404 of 1975 confirming the order of the learned Single Judge dated 8-5-1975 setting aside the order of taking over possession of the surplus land dated 20-7-1961 and directing redetermination of the surplus land. The admitted facts are that the Collector exercising the power under PEPSU Tenancy and Agricultural Lands Act, 1955 (13 of 1955) determined surplus land of the respondents at 18.82 standard acres by proceedings dated 28-5-1960. The order was not challenged by filing the appeal. Notice of surrender was given on 3-6-1961 calling upon the respondents to deliver possession of the aforesaid surplus land within ten days from the date of the receipt of the notice. Admittedly, the possession of 18.82 standard acres of land was taken by the State officials from Inder Singh who had acknowledged taking over possession on 12-7-1961.

3. Subsequently, it would appear by consolidation proceedings that had taken place in the year 1961-62, that it was found that Inder Singh was having less extent of land than the prescribed standard acres under the Act. Consequently, when he filed an application before the authorities, the Commissioner as well as the revisional authorities negated the claim resulting in filing of the writ petition. As stated earlier, the learned Single Judge and the Division Bench of the High Court have set aside the government order on the ground that Inder Singh was found having less land than the prescribed standard acres under the Act as was determined in the consolidation proceedings. Therefore, the surplus land was required to be redetermined and restituted.

4. The question is whether the view taken by the High Court is correct in law ? When the standard acres which Inder Singh was entitled to retain were determined and surplus land of an extent of 18.82 standard acres was determined by order dated 28-5-1960, and that order having been allowed to become final, would it be open to Inder Singh or any person claiming title through him to seek redetermination ? When they had not challenged the order and subsequently in the consolidation proceedings he was found to hold less extent than the prescribed standard holding, are they entitled to redetermination ? We are of the considered view that it is impermissible. It would be open to Inder Singh or any person claiming title under him to have challenged the correctness of determining surplus land by filing appeal before the appropriate forum. Admittedly, no steps had been taken. On the other hand, the order was allowed to become final and possession of the surplus land of 18.82 standard acres was taken over as admitted by Inder Singh by the proceedings dated 12-7-1961. The land was simultaneously redistributed to the landless persons as per the scheme of

the Government who are the appellants before this Court. Having allowed that order dated 28-5-1960 and the proceedings of delivery dated 12-7-1961 to become final, it would not be open to either Inder Singh or anybody on his behalf to claim redetermination. The view of the High Court is clearly illegal.

5. The appeal is accordingly allowed. The writ petition stands dismissed. But, in the circumstances, without costs.