

Gopal Ram and Others

Vs

State of Haryana and Others

Civil Appeal No. 7513 of 1995

(S. C. Agarwal, A. P. Mishra JJ)

12.08.1998

ORDER

1. On the death of Sita Bai, Respondent 10, a substitution application has been preferred by the appellants. But now their learned counsel says that it is futile to pursue the application because she was a legal representative of one of the original respondents, Munshi Ram and the estate of Munshi Ram is otherwise adequately represented. It is therefore prayed that no orders need be passed on that application. Ordered accordingly.

2. Section 18 of the Punjab Security of Land Tenures Act, 1953 specifically provides that the right to purchase an area is available to a tenant only against a landowner "other than a small landowner". That the appellants herein were tenants of a small landowner stands settled by an inter partes decision of this Court in *Ajmer Singh v. State of Haryana* [(1990) 1 SCC 277]. It transpires that an avenue thereafter was sought to be opened by filing a writ petition under Article 32 of the Constitution. Permission to withdraw the same was obtained by making a statement that the Financial Commissioner, Haryana would be approached by the appellants for appropriate relief. This is how a dead horse was flogged and the matter has been brought back before us by way of this appeal via the Financial Commissioner and the High Court, the latter having dismissed the writ petition of the appellants in limine.

3. The High Court has rightly taken the view that the status of the landowner as to whether he is a small landowner or a big landowner is to be reckoned and determined on the basis of the position as existing on 15-4-1953 when the above-mentioned Act was brought into force. It is not denied that lands which then were fallow and were described in the revenue records as "banjar kadim" and "banjar jadid" did not fall within the purview of the definition of "land" for the purposes of the Act and the landowner had some area of that description. It is also not denied that the appellants were inducted as tenants on the land of the landowners after 15-4-1953 and therefore, on the date of the commencement of the Act, they had no status as that of the tenants. The only arena of dispute is that after those fallow lands had been brought under cultivation, could such change bring about an acquisition to the existing holding of the landowner when those lands were already owned by him. Sections 19-A and 19-B of the Act, so far as relevant, are reproduced hereafter :

"19-A. Bar of future acquisition of land in excess of permissible area. - (1)
Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958, no person, whether as landowner or tenant, shall acquire or possess by transfer, exchange, lease, agreement or settlement any land, which with or without the land already owned or held by him, shall in the

aggregate exceed the permissible area.

(2) Any transfer, exchange, lease, agreement or settlement made in contravention of the provisions of sub-section (1) shall be null and void.

19-B. Future acquisition of land by inheritance, in excess of permissible area. - (1) Subject to the provisions of Section 10-A, if after the commencement of this Act, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir any land, or if after the commencement of this Act and before 30-7-1958, any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands already owned or held by him, exceeds in the aggregate the permissible area then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situated in more than one patwar circle, he shall also furnish a declaration required by Section 5-A."

4. It seems to us that when the avowed object of the Act was agrarian reform with the ultimate aim of achieving higher agricultural production by involving more people to work on land, the very purpose would be frustrated if a discouraging interpretation is put that when fallow lands were brought under cultivation, they would go to be acquisitions or accretions to the original holding of the landowner. This Court has in *Bhagwan Das v. State of Punjab* [AIR 1966 SC 1869 : (1966) 2 SCR 511] held that there is no scope of evaluating the subsequent improvements in the land due to consolidation operations or otherwise. The italicised words are explicit and wide to include that when banjar lands are brought under the plough, the enhanced valuation of the holding of the landowner would be on a par with subsequent improvements on the land at the level of a consolidation operation. The intendment of the Act is that in whatever manner the evaluation of the holding gets improved, that is outside the scope of acquisition for such an act of improvement is not an acquisition by means of a transfer, exchange, lease, agreement, settlement, inheritance, bequest or gift in terms of Sections 19-A and 19-B of the Act. The appeal of the appellants in that direction is an exercise in futility.

5. For these reasons, we find no merit in this appeal which is accordingly dismissed.