

**SUPREME COURT OF INDIA**

Saraswati Industrial Syndicate Ltd.

Vs.

State of Haryana

(S.M. Quadri and S.N. Phukan JJ.)

09.01.2001

**ORDER**

1. I.A. Nos. 1 to 7 of 2000 are allowed.

2. Leave is granted.

3. This appeal is directed against the order of the High Court of Punjab & Haryana at Chandigarh in Writ Petition No. 18454/96 passed on November 16, 1999. The appeal arises out of the proceedings under the *Punjab Security of Land Tenures Act, 1953* (in short the 'Punjab Act') and *Haryana Ceiling on Land Holdings Act, 1972* (in short the 'Haryana Act').

4. To appreciate the facts in this case it would be necessary to narrate the relevant facts. The appellant held extensive lands including the land in dispute as owner in the erstwhile State of Punjab. In the first round of litigation under the Punjab Act the lands in possession of the appellant were computed and the prescribed authority by his order dated October 22, 1963 found that there was no surplus land. The first round of proceedings under the Punjab Act ended in its favour. But the appellant by further acquisition of land invited problem for recomputation under the Punjab Act.

5. It appears the appellant, who is a displaced person, was in occupation of some evacuee land at the time of passing of the order by the prescribed authority in 1963. In view of Section 21 of the Punjab Act the evacuee land in possession of the appellant was not taken into computation for arriving at the surplus land. But pursuant to a sale deed said to have been executed on May 10, 1962 in favour of the appellant the said land was mutated in its name on January 16, 1968. Having regard to the provisions of Section 14-B of the Punjab Act, the Collector issued notice to the appellant and having recomputed the land declared that it was having surplus land of 63 standard acres and 3/4 units. That order, however, remained unchallenged till some-time in 1993. Accepting that the said land was excess land the appellant sought exemption of the said land from the provisions of the Punjab Act on the ground that there was a well run orchard thereon. On July 8, 1970 the exemption sought was granted by the competent authority. Thus that land remained with the appellant even after the second round of litigation.

6. After bifurcation of the erstwhile State of Punjab, the State of Haryana passed the said Haryana Act which came into force on January 24, 1971. By Section 32 of the Haryana Act exemptions granted in relation to the utilisation of the surplus area, inter alia, the orchard by virtue of the provisions of the Punjab Act, stood withdrawn from the appointed date. Consequently the proceeding for recomputation was again initiated and the surplus land was re-determined by order of the prescribed authority dated May 16, 1984. The appellant filed appeal against that order before the Collector. It was at that stage that the appellant challenged the validity of the Collector's order dated April 30, 1969 passed under the Punjab Act in the High Court of Punjab & Haryana in Writ Petition No. 14219/92. The writ petition was dismissed on October 29, 1992 giving liberty to the appellant to challenge the validity of the said order of Collector dated April 30, 1969 along with the order which was the subject matter under challenge in the appeal, namely, the order dated May 16, 1984. After hearing the appellant, by order dated July 6, 1993, the Collector dismissed the appeals. The appellant then unsuccessfully carried the matter before the Commissioner and the Finance Commissioner and eventually filed Writ Petition No. 18454/96 which was dismissed by a Division Bench of the High Court by the impugned order.

7. Mr. Krishan Mahajan, learned Counsel appearing for the appellant, contends that inasmuch Form 'F' was not issued under Rule 8 of the Rules framed under the Punjab Act, the appellant did not have an opportunity to file an appeal against the said order of the Collector dated April 30, 1969, as such all other proceedings ought to be declared as non est. We are afraid we cannot accept the contention of the learned Counsel for reasons more than one. First, the High Court in its order dated October 29, 1992 in Writ Petition No. 14219/92 did grant liberty to the appellant to challenge the said order and indeed the appellant challenged that order before the Collector. Secondly, the appellant having accepted the position that he was in possession of excess land chose to claim exemption under the provisions of Punjab Act which was granted and therefore it did not lie in the mouth of the appellant to say that it would have challenged the order of the Collector had the Form 'F' been communicated to it.

8. It is next contended that the land is basically an evacuee land and the appellant being a displaced person got it by virtue of entitlement as compensation for what he had lost in the neighbouring country of Pakistan; therefore that land cannot be taken into consideration for computing the excess land. In our view this submission is equally devoid of substance. No provision of either the Punjab Act or the Haryana Act is brought to our notice to show that such land is exempted from the provisions of those Acts. Section 21 of the Punjab Act, referred to above, excludes the evacuee land from computation so long as that land remains evacuee property. Once the land was allotted to the appellant and had become his property it loses the character of being 'evacuee property' thereafter; the Collector has, therefore, rightly taken note of the subsequent acquisition of land by the appellant under Section 14-B and recomputed the excess land. We do not find any illegality in the impugned order of the High Court.

9. For the above reasons the appeal fails and it is accordingly dismissed. Having regard to the circumstances of the case, we make no order as to costs.