

PETITIONER:
ADARSH SABZI MANDI SAMITI & ORS.

Vs.

RESPONDENT:
STATE OF HARYANA

DATE OF JUDGMENT: 15/02/2000

BENCH:
S.S.Ahamad, D.P.Mohapatro

JUDGMENT:

D.P.MOHAPATRA, J.

This appeal is directed against the order of the Punjab and Haryana High Court dated 25.3.1991 dismissing Civil Writ Petition No.4464/91 filed by the appellants. The impugned order reads: No ground to interfere has been made out. Dismissed The controversy raised in the case relates to distribution of surplus land under Khasra Nos. 178 and 189 in the Village Ballabgarh, District Faridabad, Haryana. The land is stated to be banjar land. It was initially a part of the land holding of Col. Harinder Singh Brar. The surplus land in his possession was determined and Khasara Nos.178 and 189 were included in the surplus area. It appears that the provisions of Haryana Ceiling on Land Holding Act, 1972) were made applicable in the matter. There are four parties to the controversy raised in the proceeding; Col. Harinder Singh Brar, the land owner (since deceased represented by Lrs.); one Jawahar Singh who laid claim to certain areas as an ejected tenant; three hundred seven persons including the appellants 3 to 183 who were allotted the land under the aforementioned two khasras as landless persons and the State of Haryana.

Feeling aggrieved by the order passed by the Special Collector, the parties moved the Commissioner, Ambala Division in appeal. After disposal of the appeals the land owner and the allottees filed Revision Petitions before the Financial Commissioner, Haryana, in ROR No.60 of 1987-88 and ROR No. 102 of 1988-89 respectively. Another petition was filed by the State of Haryana, ROR No.220 of 1988-89, invoking suo-motu power of the Financial Commissioner to correct certain errors and illegalities committed by the Commissioner, Ambala Division. The Financial Commissioner by the order dated 31.8.90 disposed of all the cases. The revisional authority after discussing the rival claims of the contesting parties formulated three issues : 1. Whether rectangle numbers 178 and 189 in revenue estate Ballabgarh form part of the surplus area of the landowner, the late Col Harinder Singh? 2. Whether land in village Bhainsa Tibba should also be included in the permissible area of the big landowner and the necessary adjustment to be made from land in Khasra No.387 of village Dhana ? and 3.

If these two rectangle numbers in Ballabgarh are found to be part of the surplus area in the hands of the big land owner, whether this land in rectangle Nos.178 and 189 should be allotted to the heirs of Jawahar Singh or to the 307 allottees or should be utilised by the State for a public purpose by denying allotment of this land to any of the rival claimants.

The revisional authority answered the first issue holding that khasra nos.178, and 189 in Ballabgarh and khasra Nos.52/20/1, 52/26, 52/27 and 52/28 in Bhainsa Tibba near Kalka should be included in the permissible area of the land owner and necessary adjustment should be made of khasra no. 387 of village Dhana. The revisional authority further held that since khasra no.178 is being taken out of surplus land and included in the permissible area of the land owner the claim of the heirs of Jawahar Singh and others for allotment of portions of land under this Khasra number is not tenable and is rejected.

Considering the claim of the heirs of Jawahar Singh for allotment of Khasra No. 178 and 189 in Ballabgarh the revisional authority held that Jawahar Singh is not entitled to be allotted any land and the order of the Commissioner in his favour also suffers from the defect that he had given no opportunity to the other claimants of this land i.e. 307 other allottees before allotting the land to Jawahar Singh. The revisional authority set aside the order of the Commissioner in this regard.

Regarding the claim of three hundred seven other allottees the revisional authority was of the view that if the land under khasra No.189 (19 kanals 9 marlas) was declared surplus that would be divided and allotted to 300 claimants, and land to an extent of 1 marla or so will come to each claimant. That would mean that the land would not be utilised for the purpose of agriculture and the very object of the land utilisation scheme would be defeated. On these grounds the revisional authority quashed the order of allotment of land in khasra Nos. 178 and 189 in favour of the 307 claimants.

Being aggrieved by the order of the revisional authority the appellants filed C.W.P. No.4464/91 which was dismissed in limine by the impugned order of the High Court.

The main thrust of the contention of Shri A.B. Rohtagi, Senior Advocate appearing for the appellants is that taking into consideration the nature of the dispute raised in the proceeding, the case of the rival claimants for allotment of the land and the serious prejudice caused to the appellant Nos.3 to 183 who are landless persons the High Court should have decided the case on merits instead of dismissing it in limine. The learned counsel further submitted that two other writ petitions, CWP No.2994/91 and C.W.P 5979/91 filed by the heirs of the land owners Col. Harinder Singh Brar and the heirs of Gajraj Singh against the same order of the Financial Commissioner are pending in the High Court. In the circumstances the learned counsel contended that, the High Court should have heard all the writ petitions arising from the order of the revisional authority and Financial Commissioner together and decided the matter on merits.

Shri Rajinder Sachar, learned Sr. Advocate appearing

for the respondent, while not disputing the statement made by the learned counsel for the appellants that two other writ petitions arising from the same order of the Financial Commissioner are still pending in the High Court, contended that this appeal should be dismissed and in case the claims of the land owner and late Gajraj Singh are negatived then the allottees may file fresh applications for allotment of surplus land under the two khasra numbers noted earlier.

We have carefully perused the order of the revisional authority. The revisional authority has discussed in detail the case of the parties claiming allotment of the land in question. On a bare perusal of the order it is clear that the claims set up by the rival claimants are inter-linked. Therefore, it is apt and proper that all the writ petitions filed against the revisional order of the Financial Commissioner dated 31.8.1990 should be heard together and disposed of on merit. We may add here that the appellant nos. 3 to 183 are amongst the three hundred seven allottees who sought allotment of land as landless persons earning their livelihood by selling vegetables and they have been using the land in question since long. It hardly needs any emphasis that such a case deserves closer scrutiny by the High Court and not in limine dismissal by an unreasoned order as has been done in the case. The order is clearly unsupportable and has to be set aside. Since the case will be considered by the High Court on merit we refrain from making any observation on the merits of the case of the parties.

In the result the appeal is allowed. The impugned order dismissing the writ petition No.4464/91 is set aside and the writ petition is restored to the file of the Punjab and Haryana High Court to be disposed of along with Writ Petition Nos.2994/91 and 5979/91 and any other Writ Petition which is filed against the order of the Financial Commissioner dated 31.8.90, and is pending, in accordance with the law, and after giving opportunity of hearing to the parties. Since the controversy has been lingering for a long time and the writ petition in the High Court was filed in the year 1991 we request the High Court to dispose of the cases at the earliest. There will, however, be no order as to costs.