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UJAGAR SINGH AND ORS.

v.

STATE OF PUNJAB AND ORS.

JULY 25, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*PEPSU Tenancy and Agricultural Lands Act, 1955 :*

C

*Land—Ceiling—Surplus land—Redetermination of—Respondent's Surplus land determined—Determination order attaining finality—Possession of surplus land taken over by State—Simultaneously land distributed amongst landless persons as per Government scheme—Subsequently in consolidation proceedings landowner found having less extent of land than the prescribed standard acres under the Act—Landowner filing application for redetermination of surplus land—Rejection by Commissioner as well as revisional authority—Writ—High Court directing that surplus land was required to be redetermined and restituted—Appeal preferred by landless persons who were distributed land as per scheme—Held order of determination of surplus land having become final it was not open to landowner or for anybody claiming on his behalf to claim redetermination—View taken by High Court held illegal.*

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2735 of 1981.

F

From the Judgment and Order dated 20.9.78 of the Punjab & Haryana High Court in L.P.A. No. 404 of 1975.

S.M. Ashri for the Appellants.

Manoj Swarup, K.C. Gupta and A.K. Goel for the Respondents.

G

The following Order of the Court was delivered :

Substitution allowed.

H

This appeal by special leave arises against the order of the Division Bench of the Punjab & Haryana High Court made on 20.9.1978 in LPA No. 404/75 confirming the order of the learned single Judge dated May 8,

1975 setting aside the order of taking over possession of the surplus land dated July 20, 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 determined surplus land of the respondents at 18.82 standard acres by proceedings dated May 28, 1960. The order was not challenged by filing the appeal. Notice of surrender was given on July 3, 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 July 12, 1961.

Subsequently, it would appear by consolidation proceedings that had taken place in the year 1961-62, 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 negatived 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.

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 was determined and surplus land of an extent of 18.82 standard acres was determined by order dated May 28, 1960. 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 July 12, 1961. The land was simultaneously

A redistributed to the landless persons as per the scheme of the Government who are the appellants before this Court. Having allowed that order dated May 28, 1960 and the proceedings of delivery dated July 12, 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.

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

T.N.A.

Appeal allowed.