

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).18923/2012

(From the judgement and order dated 21/02/2012 in LPA No.272/2012 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

DALEEP SINGH

Petitioner(s)

VERSUS

STATE OF HARYANA AND ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and permission to place addl. documents on record and permission to file lengthy list of dates and with prayer for interim relief)

Date: 13/07/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.Mahabir Singh, Sr.Adv.  
Mr. Rakesh Dahiya, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against judgment dated 21.02.2012 of the Division Bench of the Punjab and Haryana High Court whereby the letters patent appeal filed by the petitioner was dismissed and the order passed by the learned Single Judge negating his challenge to the determination of surplus area by the Prescribed Authority was upheld.

On 14.8.1976, the petitioner who owned 922 canals 12 marlas 'C' category land as on 24.1.1971 filed a declaration under Section 9(1) of the Haryana Ceiling on Land Holdings Act, 1972 (for short, 'the Act') showing himself, his wife and three children as the family. The petitioner's mother Smt. Dakhan, who owned 5 kanals 8 marlas land did not file the declaration. However, when the declaration form submitted by the petitioner came up for consideration before the Prescribed Authority, Smt. Dakhan filed an application along with her affidavit and prayed that the declaration form filed by her son should be treated as one filed by her being head of the family. She further prayed that the surplus area be determined with reference to total land measuring 928 kanals after giving one unit to her and one unit to the petitioner. The Prescribed Authority accepted the prayer of Smt. Dakhan and passed order dated 5.4.1984 whereby he allowed the petitioner and his mother to retain 864 kanals of 'C' category land.

On a reference made by the Commissioner, the Financial Commissioner, Haryana suo-motu invoked the revisional power vested in the State under Section 18(6) of the Act and issued notice to the petitioner proposing to set aside the order of the Prescribed Authority on the ground that his mother could not be treated as part of the family. The petitioner contested the notice mainly on the ground of delay. After considering his objection, the Financial Commissioner passed order dated 9.6.1994 and set aside the order of the Prescribed Authority with a direction that the surplus area of the petitioner be re-determined.

After reconsidering the matter, the Prescribed Authority passed order dated 29.8.1995 and declared 490 kanals 12 marlas land as surplus in the hands of the petitioner.

The petitioner did not challenge the order of the Prescribed Authority by filing an appeal under Section 18. Instead, he and others filed Civil Writ Petition No. 16338/1995, which was dismissed by the learned Single Judge by a detailed order dated 11.1.2012. He held that the

petitioner's mother does not fall within the definition of family under Section 3(f) of the Act and her land could not have been clubbed with that of the petitioner for the purpose of determining the surplus area by treating them separate units.

The Division Bench of the High Court agreed with the learned Single Judge that the petitioner's mother could not be treated as part of the family for the purpose of determination of his surplus area and dismissed the letters patent appeal.

We have heard Shri Mahabir Singh, learned senior counsel appearing for the petitioner at length and carefully perused the record. In our view, the reasons assigned by the learned Single Judge and the Division Bench of the High Court for rejecting the petitioner's challenge to the order passed by the Prescribed Authority are legally correct. Section 3(f) of the Act which contains the definition of 'family' reads as under:  
"3(f) "family" means husband, wife and their minor children, or any two or more of them.

EXPLANATION 1. -- A married minor daughter shall not be treated as a child.

EXPLANATION 2. --Child shall include

(i) child of the husband from his deceased or divorced wife and living with him;

(ii) child of the wife from her deceased or divorced husband and living with her; .

(iii) illegitimate child of the husband or the wife and living with them or either of them;"

The plain language of the definition of 'family' shows that the widowed mother is not included therein. Section 3(q) which defines the term 'seperate unit' and on which reliance has been placed by Shri Mahabir Singh for questioning the impugned judgment has no bearing on the interpretation of the term 'family' and an extended meaning cannot be given to the said term for inclusion of those to whom the Legislature has not included.

In the result, the special leave petition is dismissed.

The Sub-Divisional Officer (Civil)-cum-Prescribed Authority, Ellanabad, District Sirsa is directed to take possession of the surplus land and submit a report to the State Government within a period of one month from the date of receipt of copy of this order.

The Registry is directed to send a copy of this order to Sub-Divisional Officer (Civil)-cum-Prescribed Authority, Ellanabad, District Sirsa, Haryana by fax.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master