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SURINDER NATH DEWAN

v.

STATE OF HARYANA AND ORS.

JANUARY 19, 1994

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

*Haryana Ceiling on Land Holdings Act, 1972 : Section 12(3). Declaration of surplus land—Assigning of such land to landless poor—Issue of show-cause notice to Declarant of surplus land—Whether necessary.*

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The appellant was declared to have 15 standard acres as surplus land by an order of the Collector dated December 12, 1960 made under the East Punjab Security of Land Tenures Act, 1953. That order became final. Earlier, in the year 1956 under the East Punjab Area Utilisation of Lands Act, 1949, possession of certain land now declared as surplus, was taken by the Collector and leased out to a tenant. However, during consolidation proceedings, the appellant obtained an order from the authorities that he had only 5 standard acres of surplus land. Subsequently, he sought for restoration of land leased as being surplus land and the authorities issued directions to restore the leased land to the appellant. But simultaneous proceeding were taken to assign the earlier declared surplus land to the landless poor. The appellant unsuccessfully questioned before the High Court the action of the respondent in assigning such land to the landless poor.

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In appeal to this Court, it was contended on behalf of the appellant that since the appellant was declared as surplus holder only of 5 standard acres of land, the respondents could not assign the lands in excess of 5 standard acres without show cause notice to the appellant.

Dismissing the appeal, this Court

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HELD : By operation of Section 12(3) of the Haryana Ceiling on Land Holdings Act, 1972, the surplus land stood vested in the State free from all encumbrances on and with effect from December 23, 1972. From that date then pre-existing right, title and interest in 15 standard acres including that in 5 standard acres of land stood vested in the state and the appellant stood divested of the title to the land. Therefore, the question of restoring 5 acres of land to the appellant or giving notice to the

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appellant, does not arise. [188-B, C]

*Jaswant Kaur v. State of Haryana*, A.I.R. (1977) P & H 221 and *Jodha Ram v. P.C. Haryana*, [1994] 1 S.C.C. 27, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2133 of 1984.

From the Judgment and Order dated 23.11.1981 of the Punjab & Haryana High Court in C.W.P.No.5298 of 1981.

A.M. Singhvi, G.K. Bansal, S.M. Ashri, K.K. Mohan, Rajiv Dutta, Vipin Nair, Mahabir Singh, J.D. Jain, Ms. Shirin Jain, Ms. V. Mohana and Ms. Indu Malhotra for the appearing parties.

The following Order of the Court was delivered :

1. The appellant was declared to have 15 standard acres as surplus land by an order of the Collector dated December 12, 1960 made under the provisions of the East Punjab Security of Land Tenures Act, 1953, which had come into force on April 15, 1953. That order became final. Earlier, in the year 1956 under the East Punjab Area Utilisation of Lands Act, 1949, the possession of 41 kanals 19 marlas which is now declared as surplus, was taken by the Collector and leased out to a tenant. It appears that during consolidation proceedings, the appellant had manoeuvred to obtain a decision from the authorities that he had only 6 standard acres of surplus land. Subsequently, in the year 1979, the appellant sought for restoration of land leased as being surplus land. In pursuance thereof, the Authorities appear to have issued directions to restore the leased land to the appellant. However, a simultaneous proceeding appears to have been taken to assign the earlier declared surplus land to landless poor. The appellant questioned the action of the respondent in assigning such surplus land to the landless poor on the ground that he was not given even show cause notice, by filing a writ petition in the High Court which was dismissed by order dated 3.1.1994. The present appeal by special leave is directed against that order.

2. Shri K.K. Mohan, learned counsel for the appellant strenuously contended that the appellant while is declared as surplus holder only of 5 standard acres of land, the respondents could not assign the lands in excess of 5 standard acres that too without issue of show cause notice to the appellant. We find no force in the contention. Admittedly, the appellant

- A was declared as holder of 15 standard acres of surplus land by the order passed by the Collector on December 12, 1960. Having allowed that order to become final, the only course open to him was to have carried it in appeal or to have it reopened under that Act or under the Haryana Ceiling on Land Holding Act, 1972, provided the law permitted reopening of the proceedings and recomputation of the surplus holdings. That was not done.
- B. By operation of section 12(3) of the Haryana Act, the surplus land stood vested in the State free from all encumbrances on and with effect from December 23, 1972. *Jaswant Kaur v. State of Haryana*, A.I.R. (1977) P & H 221, a Full Bench Judgment which was approved by this Court in *Jodha Ram v. F.C. Haryana*, [1994] 1 S.C.C. 27, holds that the lands stood vested in the State absolutely effective from December 23, 1972. From that date
- C then pre-existing right, title and interest in 15 standard acres including that in 5 standard acres of land stood vested in the State and the appellant stood divested of the title to the land. Therefore, the question of restoring 5 acres of land to the appellant or giving notice to the appellant, does not arise.
- D 3. It may not be construed that the other excess land which stood vested in the Government by operation of section 12(3) read with the order dated December 12, 1960 would impede any right, if the appellant had got by any subsequent orders modifying the determination of the surplus area in accordance with the provisions of 1953 Act. The appeal is, therefore, dismissed but without costs.
- E T.N.A. Appeal dismissed.