Supreme Court of India
Sampuran Singh vs State Of Haryana And Ors on 19 January, 1994
Bench: K. Ramaswamy, N. Venkatachala

CASE NO.:
Appeal (civil) 3397 of 1984

PETITIONER:
SAMPURAN SINGH

RESPONDENT:
STATE OF HARYANA AND ORS,

DATE OF JUDGMENT: 19/01/1994

BENCH:
K. RAMASWAMY & N. VENKATACHALA

JUDGMENT:

JUDGMENT 1994(1)SCR 176 The following Order of the Court was delivered :

1. This appeal arises from the order of the Division Bench of the Bench of the Punjab & Haryana High Court, dated November 23, 1981 made in C.W.P. No. 5298/81. Admittedly by proceedings dated August 28, 1964 the appellant was declared to have surplus laud of 117 bighas, 5 biswas of barani land as on April 15, 1964. Thereafter he remained in possession and enjoyment of the surplus land. In the W.P. the appellant claimed that in the interregnum his three sons had become majors and that therefore the surplus area should be recomputed under the Haryana Ceiling on Land Holdings Act, 1972. The High Court dismissed the Writ Petition. Thus, this appeal by special leave.

2, Shri Bansal, learned counsel for the appellant raised two-fold contentions. Firstly he contended that since the land, though declared surplus, having been allowed to be in possession and enjoyment of the appellant, that is, to remain otherwise unutilised, the appellant was entitled to seek the reopening of his declaration in which his sons had since become majors. Under ss.7 and 9 of the Haryana Act, computation of surplus land had to be done among himself and his three sons. We find no force in this contention. The Punjab Act while fixes 31 standard acres as ceiling area, the Haryana Act fixes 17-1/2 standard acres as ceiling area and permits under s.9, the determination of surplus land. If there was a major son living separately, his unit could be computed separately as his share. In that process, the surplus land is liable to adjustment under s.9 of Haryana Act. That does not, however, permit the surplus area declared under Punjab Act to be adjusted by reopening and recomputation. Neither the Haryana Act nor the Punjab Act contain any such provision. On the other hand the provision in S.33(2)(ii) that pending proceedings under Punjab Act should be completed under 1953 Act and the surplus land would vest in the State is a clear indication to the contrary. A full bench of the Punjab & Haryana High Court in Jaswant Kaur v. State of Haryana, A.I.R. 1977 P & H 221, interpreting s.!2(3) of Haryana Act held that the surplus lands on and from December 23, 1972 shall stand vested under Section 12(3) of the Haryana Act in the State. In other words, from that date the lands stand vested in the State of Haryana free from all encumbrances, becoming available under the Haryana Act for allotment of surplus land to the tenants and the

landless labourers for cultivation. This Court also considered the effect of that judgment in Jodha Ram (dead) by L.Rs. v. Financial Commissioner, Haryana, Chandigarh & Ors., [1994] 1 S.C.C. 27, and held that by operation of Section 8 read with s.12 and also of the Punjab Act, any alienation made prior to July 13, 1958 alone was saved and the lands remaining undisposed of, till the date of vesting would continue to vest in the State and the surplus landholder' does not have any right, title or interest in the land and he cannot even seek eviction of any tenant inducted by the State into that land. In view of these decision, we have no hesitation to conclude that though the surplus land was allowed to remain in possession of the previous landholder, the title stood vested in the State free from all encumbrances on and from December 23, 1972. Further the mere enjoyment of surplus land allowed by the State to the previous landholder does not create any right in him to claim any tide in such land. Therefore, the question of fresh computation among the appellant and his three sons, who later became majors, does not arise.

3. It is next contended that the Act has been given retrospective effect and it effects the vested right of the appellant and that therefore it is ultravired. We find no force in the contention. It is now well settled that legislature is competent to enact taw with retrospective effect even taking away vested rights in some cases by allowing retrospective operation of the law. In this case such question does not arise for the reason that by statutory vesting of the surplus land; the pre-existing right, title and interest in the land of its holder stood vested in the State on and from December 23,1972. When the constitutional validity of the provisions in the Act was challenged, this Court by a Bench of three Judges in W.P. Nos. 16018-21/84 and other cases entitled Mukhtiar Singh & Ors. v. State of Haryana & Anr., by judgment dated November 21, 1984 upheld their validity. Under these circumstances, we do not find any ground warranting interference with the order under challenge. The appeal is accordingly dismissed but in the circumstances without costs.