Supreme Court of India
Smt. Bhagwanti Devi And Anr vs State Of Haryana And Anr on 19 January, 1994
Bench: K. Ramaswamy, N. Venkatachala

CASE NO.:
Appeal (civil) 2532-35 of 1985

PETITIONER:
SMT. BHAGWANTI DEVI AND ANR.

RESPONDENT:
STATE OF HARYANA AND ANR.

DATE OF JUDGMENT: 19/01/1994

BENCH:
K. RAMASWAMY & N. VENKATACHALA

JUDGMENT:

JUDGMENT 1994(1) SCR 180 The following Order of the Court was delivered :

1. These appeals are being disposed of by a common judgment since a common question of law arises, the parties are inter-related and the dispute relates to the same land. These appeals arise from the judgment of the Punjab & Haryana High Court in C.W.P.No.1677 of 1985 and batch by which a Division Bench dismissed the writ petitions of the appellants in Untie. Thus these appeals by special leave are filed.

2. The appellants family had 828 standard acres of land. Under Section 2(5) of the Punjab Security of Land Tenures Act, 1953, for short 'the Act' which came into force w.e.f. April 15, 1953, the Collector took proceedings dated June 27, 1960 and declared surplus lands concerned in the respective appeals. That declaration became final. Thereafter, applications were filed under Rule 8 of the Rules made under the Act seeking permission to utilise the surplus lands by continuing in their possession on the ground that they were cultivating the lands as a modern farm. It is unnecessary to advert to previous history of the surplus lands except to state that the Special Board by its order dated May 12, 1964 made under Rule 8 of the Rules permitted the appellants to continue to use the surplus area after ejecting the tenants that were put in possession by the Collector under East Punjab Utilisation of Lands Act, 1949. While the appellants continued to enjoy the surplus lands, the Haryana Ceiling on Land Holdings Act, 1972 came into force w.e.f. January 24, 1971. By operation of sub-section (3) of Section 12 of the Haryana Act, the surplus lands stood vested in the State w.e.f. December 23, 1972. The appellants filed writ petitions claiming that the minors in the family had, after declaration of the lands as surplus under 1953 Act, having become majors, they cannot be regarded as surplus holders and, therefore, they were entitled to con-tinue to use the lands. Those writ petitions being dismissed, the present appeals are filed by special leave.

3. Shri S.M. Ashri, the learned counsel for the appellants strenuously contended that by operation of section 9 of Haryana Act read with the provisions of 1953 Act, the appellants continue to remain as owners of the land though the lands were declared surplus. He maintained that the lands since

remained undistributed among tenants and continued in appellants possession and enjoyment as owners, they were entitled to be considered under Haryana Act as non surplus landholders. Whether they are having lands within the ceiling limit prescribed under section 7 of the Act has, therefore, to be considered and redetermined. We find no force in the contention.

4. No. doubt under 1953 Act, there is no specific provision which provided for vesting of the surplus lands, declared thereunder. The Collec-tor had power to take possession of the surplus lands and utilise them under East Punjab Area Utilisation of Lands Act, 1949, by their allotment to the tenants for cultivation. But for the exemption granted under Rule 8 of the Rules, the appellants had no right to remain in possession. Having got the benefit of Rule 8 and remained in possession of the surplus land and utilised the same for the purpose of cultivation in a modern farm, it is not open to appellants to contend that the land having remained unutilised and continued to be in their possession and enjoyment, s.12(3) does not divest them of their title. The language of s.12(3) is unequivocal and clear. According to it the surplus lands declared under the Act stand vested in the State, Even otherwise the non-utilisation of surplus land till date of vesting i.e. on December 23, 1972 is not material. The object of the Act and s.l2(3) of 1972 Act was redistribution of surplus land among the landless ryots and agricultural labour and to confer title on them. The Act enabled the owner of the surplus land to recover rent from the lessee and enjoy the income till date of vesting and no more. Section 32 of Haryana Act admittedly declared all exemptions under Rule 8 as of no avail w.e.f. January 24, 1971 in that it expressly states thus :

"As from the appointed day exemption granted in relation to the utilisation of surplus area under orchards, tea-estates or well run farms by virtue of the provisions of the rules framed or purported to have been framed under the Punjab Law, shall stand withdrawn".

5. Therefore, from the appointed day the possession held by appellants of surplus lands become unlawful and entitles the Collector or competent officer to resume possession of them from appellants. Neither Section 12(3) nor Sections 7 and 9 the Haryana Act empower the ceiling authority to reopen the proceedings relating to surplus lands which had become final is also made clear by Section 33(2)(ii) thereof. Section 33(2)(ii) says that the surplus area determined in the pending proceedings under the Act shall be done under that Act and surplus land shall vest in and be utilised by the State Government in accordance with the provisions of the 1972 Act. Sub-section 2(ii) of section 33, no doubt, deals with determination of surplus area pending proceeding under the Punjab Law as on the notified date and vesting of the surplus area so determined in the State. The legislative intendment, therefore, appears to be that the surplus area declared under Punjab Law shall remain to be surplus. If any area that becomes surplus under the Haryana Act since the surplus area was reduced from 31 standard acres to 17-1/2 acres, that surplus area should be redetermined under Section 7 read with section 9. Therein if a son becomes major and resides separately he is entitled to a separate unit etc. However, it does not appear that the surplus area declared under the Punjab Law should be reopened and recomputed under 1972 Haryana Act. No such express provision was engrafted in 1972 Act. Though the family of the appellants have swelled and some of the minors have become majors, the appellants are not entitled to have the surplus area which had become final reopened for recomputation under the 1972 Haryana Act. Thus considered, we find that the High Court was fully justified in dismissing the writ petitions. The appeals are, therefore,

dismissed, but without costs.

6. In.S.L.P.7622 of 1982 Leave granted.

The first petitioner Tara Singh died on July 5, 1987 and his legal representatives have not been brought on record. Therefore, the appeal stood abated, as against him. Since the cause of action was the dismissal of the appeal against Tara Singh that operates as against the other two persons Pritam Singh and Jeet Singh. Therefore, the appeal as against the other appellants also stood abated. No. costs.

7. In CA.Nos.1657/82, C.A. @ S.L.P. (C) Nos.7175/86, 3185/85 7441/86, 7384/86, & in W.P. Nos. 16213-16/84.

C.M.P. No. 24822/82 in C.A. No. 1657/82 is allowed. Leave granted in the S.L.Ps. The point raised in these matters is covered by the judgment just now dictated in CA. Nos. 2532-35/85, 2667-69/85 & 2531/85. Therefore, these appeals are, as well, dismissed. No. costs.