

COL. SIR HARINDER SINGH BRAR BANS BAHADUR

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v.

BIHARI LAL AND OTHERS ETC.

MARCH 18, 1994

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

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The Punjab Security of Land Tenures Act, 1953 : S.18—Land in tenancy—Tenant's application for purchase of—Held, right of tenant to purchase the land having been upheld by appellate and revisional authorities, landowner was disentitled to reagitate the issue in writ petition before High Court in guise of seeking redetermination of the purchase price of the land.

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Respondent No. 1, a tenant of the appellant-land owner in respect of land measuring 246 Kanals, 18 Marlas, filed an application to purchase the said land under s. 18 of the Punjab Security of Land Tenures Act, 1953. The Assistant Collector allowed the application by his order dated 4.3.1963 in respect of 224 Kanals, 18 Marlas. The land owner filed an appeal before the Collector challenging the order as regards the right of the tenant to purchase the land as well as the purchase price payable for the land. The Collector, by his order dated 5.7.1963 upheld the tenant's right to purchase the land, but remanded the case to redetermine the purchase price of the land. Land owner's further appeal was dismissed by the Commissioner. His review application was also dismissed by the Financial Commissioner on 9.12.1965.

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The Assistant Collector, by his order dated 20.9.1968 redetermined the purchase price only in respect of 48 Kanals, 4 Marlas of land. This gave rise to a second round of litigation between the parties and ultimately both the revisions—one filed by the tenant to reduce the purchase price and the other preferred by the land owner disputing the right of the tenant for purchase of the whole land—were dismissed by the Financial Commissioner. Against this, the land owner filed a writ petition before the High Court challenging the right of the tenant to purchase the land. The Single Judge dismissed the writ petition. The intra court appeal was dismissed by the Division Bench of the High Court. The land owner filed the Special Leave Petition.

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Dismissing the special leave petition, this Court

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A HELD : The High Court cannot be said to have gone wrong in concluding that the land-owner was disentitled to reagitate the question relating to right of purchase of the land by the tenant in the guise of seeking redetermination of the purchase price of land made by the Assistant Collector on 20.9.1968, pursuant to an order of remand. The order dated 4.3.1963 passed by the Assistant Collector under s. 18 of the Punjab Security of Land Tenures Act, 1953 as regards the right of the tenant to purchase 224 Kanals 18 Marlas of land was justly upheld by the appellate authority and ultimately by the revisional authority, the Financial Commissioner, on 9.12.1965. [110-C-D; 109-H]

C CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil) No. 11296 of 1992.

From the Judgment and Order dated 16-9-82 of the Punjab and Haryana High Court in L.P.A. No. 304/1979.

D Rajinder Sachhar, S.K. Mehta, Dhruv Mehta and Aman Vachher for the Petitioner.

M.L. Verma, N.D. Garg, Ms. Nisha Bagchi, Ms. Dania Pradhan, Ms. Laxmi Arvind and Ms. Indu Malhotra for the Respondents.

E The Judgment of the Court was delivered by

F VENKATACHALA, J. Bihari Lal, the first respondent in this petition was the tenant under Harinder Singh, the landowner in respect of the land measuring 246 Kanals 18 Marlas in Ballabgarh in Punjab State. With the coming into force of the Punjab Security of Land Tenures Act, 1953 (hereinafter to be referred to as 'the Act'), the relationship of the landowner and the tenant in respect of the said land came to be regulated by the provisions of the Act. The tenant, who was entitled to purchase the said land under Section 18 of the Act, made an application on February 3, 1961 before the Assistant Collector of First Grade who declared by his Order dated March 4, 1963 that the tenant was entitled to purchase 224 Kanals 18 Marlas of the land and its purchase price was Rs. 13,789.18 and the same was required to be paid by the tenant in four equal six monthly instalments or in lump sum. The tenant deposited a sum of Rs. 3,447.30 which constituted the first instalment. However, that order of the Assistant Collector was challenged by the landowner as regards both, the right of the tenant to purchase that land and the purchase price payable for that land, **H** by filing an appeal before the Collector. The Collector, by his Order dated

August 5, 1963 partly allowed the appeal by remanding the case to the Assistant Collector as regards the tenant's right to purchase that land. The land-owner, although challenged that appellate Order of the Collector by filing a further appeal before the Commissioner and a revision before the Financial Commissioner, did not succeed. The Financial Commissioner dismissed the revision on December 9, 1965 by an Order made thereon.

The Assistant Collector who was required by the appellate order of the Collector to redetermine the purchase price of that land, made an order on September 20, 1968 determining the purchase price at a higher rate only in respect of 48 Kanals 14 Marlas of land leaving out 176 Kanals 4 Marlas of land on his view that that land was not available with the tenant by that date because of its acquisition in the meantime under the Land Acquisition Act, 1894 ('the L.A. Act' for short). But that Order being challenged by the tenant in an appeal filed before the Collector, the rate of purchase price of land was reduced, however, holding that it was not open to the Assistant Collector to confine the determination of purchase price to 48 Kanals 14 Marlas contrary to remand order which had become final and, therefore, the rate of purchase of the land determined by him was to extend to the whole land. The tenant deposited with the Assistant Collector a sum of Rs. 28,179.26 according to the purchase price so determined by the Collector on March 3, 1969. When the matter was carried in appeal by the land-owner before the Commissioner it was ordered by him on August 19, 1969, that rate of purchase price as determined by the Assistant Collector on September 20, 1968 should be restored and that rate should become applicable to the entire land of 224 acres as held by the Collector. That order of the Commissioner was challenged by both the tenant and land-owner in revisions filed before the Financial Commissioner, the tenant seeking reduction in the rate of purchase price and the land-owner disputing the right of the tenant for purchase of the whole land. But, the Commissioner dismissed both the revisions by his Order dated May 22, 1973. The said Order of the Financial Commissioner was challenged by the land-owner in Civil Writ Petition No. 3260 of 1973 filed in the High Court of Punjab and Haryana as regards the right of the tenant to purchase the tenanted land. The learned Single Judge of the High Court dismissed that Writ Petition by his Order dated October 12, 1979 finding, *inter alia* that the land-owner when had not questioned the correctness of the Order dated December 9, 1965 made by the Financial Commissioner upholding the right to purchase the tenanted land by the

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A tenant, it was not open to him to reagitate that matter on the basis of the Order of the Assistant Collector made on September 20, 1968 pursuant to remand order which had upheld the right of repurchase of the whole land by the tenant. The said order of the learned Single Judge appealed against by the land-owner in L.P.A. No. 394 of 1979, was dismissed by the Division Bench of the High Court by its Order dated September 16, 1982, declining to interfere with the order of the learned Single Judge. The land-owner has filed the present Special Leave Petition in respect of the said order of the Division Bench of the High Court.

As becomes clear from the facts giving rise to the present S.L.P., the Order dated March 4, 1963 of the Assistant Collector made under Section 18 of the Act as regards the right of the tenant to purchase 224 Kanals 18 Marlas of land was upheld by the appellate authority and ultimately by the revisional authority, the Financial Commissioner, on December 9, 1965. If that be so, the learned Single Judge of the High Court cannot be said to have gone wrong in concluding that the land-owner was disentitled to reagitate the question relating to right of purchase of the land by the tenant in the guise of seeking redetermination of the purchase price of land made by the Assistant Collector on September 20, 1968, pursuant to an order of remand. Similarly, it cannot be said that the Division Bench of the High Court was in any way unjustified in refusing to interfere with the order of the learned Single Judge. Hence, the order of the Division Bench against which the present Special Leave petition has been filed, does not call for interference.

We, therefore, reject the Special Leave Petition. However, in the facts and circumstances of the case, we do not propose to make any order as to costs.

R.P.

Petition dismissed.