

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

MOHAN SINGH,Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents,
Civil Writ No. 1573 of 1962.

Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—S. 32 K (i) (iv)—Efficiently managed farm—Essentials of—Farm consisting of separate blocks situated at different places—Whether any particular block or all blocks are exempted.

1963

May, 17th.

Held, that in order to grant exemption under section 32 K (i) (iv) of the Pepsu Tenancy and Agricultural Lands Act, 1955, what is to be seen is an efficiently managed farm. An efficiently managed farm may comprise of a number of blocks and if all those blocks are efficiently managed as an integrated whole, then the mere fact that the principal structures and investments are concentrated on one of those blocks will not derogate from the other blocks being part of the efficiently-managed farm. The entire farm is to be treated as on unit.

Petition under Articles 226 and 227 of the Constitution of India praying that an appropriate writ, order or direction be issued summonings the records of the case from Pepsu Land Commission, Chandigarh and the land comprised in Blocks No. 2 and 3 measuring 12 and 22 acres situated in village Hadiabad be declared as efficiently managed farm and also exempt from the operation of the Act being less than 30 Standard Acres.

TIRATH SINGH, ADVOCATE for the Petitioner.

H. S. DOABIA, ADDITIONAL ADVOCATE-GENERAL, for the Respondents.

ORDER

MAHAJAN, J.—This is a petition under Article 226 and 227 of the Constitution of Inida and is directed

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against the order of the Pepsu Land Commission. The petitioner owns three blocks of land in Tahsil Phagwara in the erstwhile State of Kapurthala. This land he acquired from the late Ruler of that State. According to his case, which has been accepted by the Pepsu Land Commission with regard to one block of land measuring 79 acres, the land in dispute is an efficiently managed farm answering the requirements of section 32-K(1)(iv) of the Pepsu Tenancy and Agricultural Lands Act, 1955. Section 32-K(1)(iv) is in these terms—

“32-K. *Exemption from ceiling on land.*—(1)
 the provisions of section 32-A shall not
 apply to—

* * * * *

(iv) efficiently managed farms which consist
 of compact blocks on which heavy invest-
 ment or permanent structural improve-
 ments have been made and whose break-up
 is likely to lead to a fall in production;

* * * * *

On the basis of this provision exemption was claimed from ceiling fixed under the Act. The petitioner has three blocks of land measuring 79 acres, 12 acres and 22 acres. The latter two blocks are within a mile and a mile-and-a-half from the principal block of 79 acres. With regard to first block of 79 acres, the Commission granted the exemption under section 32-K(1)(iv). With regard to the other two, it refused the exemption on the ground that these blocks of land were separate from the main block and that the other requirements were not satisfied. The other requirements according to the Commission that were not satisfied were that there were no heavy investment or permanent structural improvements on the other two blocks. This is completely misreading the provisions of law.

What is to be seen is an efficiently managed farm. An efficiently managed farm may comprise of a number of blocks and if all those blocks are efficiently managed as an integrated whole, then the mere fact that the principal structures and investment are concentrated on one of those blocks will not derogate from the other blocks being part of the efficiently managed farm. The entire farm is to be treated as one unit and the Commission was in error in treating the blocks as three separate farms and then applying the tests of section 32-K separately to each of them. The error is patent on the face of the order of the Commission, and that being so, there is no option but to quash that order with the direction that the Commission should go into the matter of the entire holding of the petitioner as one unit and then come to a conclusion whether the requirements of section 32-K(1)(iv) are satisfied. So long as this determination is not made, the possession of the petitioner should not be disturbed. The petitioner will be entitled to his costs which are assessed at Rs. 50.

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R.S.

APPELLATE CIVIL

Before Shamsheer Bahadur, J.

ISHWAR DAS,—Appellant.

Versus

RAJ KUMAR AND OTHERS,—Respondents.

Execution Second Appeal No. 1303 of 1961.

Punjab Debtors' Protection Act (II of 1936)—S. 9—Whether abrogated by sections 4 and 8 of Hindu Succession Act (XXX of 1956) in the case of Hindus where succession opens out after the coming into force of the said Act.

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May, 16th.