

2025:PHHC:175710



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(1)

CWP-3187-1993 (O&M)

JYOTI RAM (DECEASED) THROUGH LRs.

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

(2)

2025:PHHC:175754



CWP-3189-1993 (O&M)
Date of decision :17.12.2025

PIARI BAI (DECEASED) THROUGH LRs.

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mani Ram Verma, Advocate
Mr. Keshav Partap Singh, Advocate
and Mr. Nipun Verma, Advocate
for the petitioners.

Mr. Kapil Bansal, D.A.G., Haryana.

Mr. Jasneen, Advocate
for Mr. Karan Gupta, Advocate
for respondents No.6, 7, 10, 12 to 15.

Mr. Rajender Kumar, Advocate
for respondents No.8 and 9.

Mr. Kanwaljit Singh, Senior Advocate
assisted by Mr. Gagandeep Singh, Advocate
for respondent No.14.

HARSH BUNGER, J.

This order shall dispose of two writ petitions i.e. **CWP-3187-1993** and **CWP-3189-1993** as both involve common question of law and facts.

Prayer in these writ petitions, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the order dated 31.10.1980 (Annexure P-1) passed by the learned prescribed authority, Fatehabad; order dated 22.09.1981 (Annexure P-2) passed by the learned Collector, Hisar; order dated 21.11.1982 (Annexure P-3) passed by the learned Commissioner, Hisar Division, Hisar as well as order dated 30.05.1989 (Annexure P-4) passed by the learned Financial Commissioner, Haryana.

2. Briefly, surplus area determination in respect of Sh. Jyoti Ram and Smt. Piari Bai (big land-owners) was carried out by the prescribed authority, Fatehabad. It appears from the records that the big land-owner (Jyoti Ram) and his family members owned *1060 kanals-12 marlas* area. Similarly, Smt. Piari Bai, owned *335 kanals – 5 marlas* of land.

2.1 Before the prescribed authority, two pleas were taken on behalf of land-owners (Jyoti Ram and Piari Bai) namely:-

- (i) *that on the appointed date (24.01.1971), there was no tubewell in the land of big land-owners;*
- (ii) *that the big land-owner (Jyoti Ram) had executed a sale deed on 19.04.1972 in respect of 147 kanals – 12 marlas for Rs.18,000/-. Further sale deeds dated 31.10.1979, 31.05.1977 and 07.03.1979 were also produced by the big land-owner (Jyoti Ram) and his family members. Similarly, Smt. Piari Bai is stated to have executed a sale deed dated 31.10.1989 in respect of 24 kanals – 0 marla and another sale deed dated 31.10.1979 in respect of 48 kanals – 2 marlas. The said sale(s) were claimed by the big land-owners to be genuine sales.*

2.2 The afore-said pleas of the big land-owners were opposed by the tenants, who relied upon a report dated 30.09.1980 submitted by the concerned Patwari stating that in the land of the big land-owners, there was a tubewell in *killa No.71/21*. As regard the above-referred sales by the big land owners, the tenants took a stand that the land owners had sold the land only to save their land from being declared as surplus and that the said sales were executed by the land owners in favour of their relations at a lesser price, which are liable to be ignored.

2.3 After considering the rival stands taken by the land owners and the tenants, the prescribed authority accepted the stand of the tenants as regards existence of tubewell in the land of the big land-owners and further, considered the said tubewell to be of $7\frac{1}{2}$ *horse power*.

2.4 Further, the prescribed authority accepted the stand of the big land-owner (Jyoti Ram) that the sale of *147 kanals-12 marlas* area, vide sale deed dated 19.04.1972 was genuine as the same was executed prior to the coming into force of the Haryana Ceiling on Land Holdings Act, 1972 (in short 'the 1972 Act').

2.5 The prescribed authority, Fatehabad upon consideration of the matter, vide order dated 31.10.1980 (Annexure P-1), came to the conclusion that there were two declaration forms submitted by Sh. Jyoti Ram and his mother (Piari Bai, who is petitioner in **CWP-3189-1993**) separately and that Sh. Jyoti Ram was owner of *1434 kanals-14 marlas* 'C' grade area; which was *829 kanals-18 marlas* ('C' grade) more than the permissible area, accordingly, the same were declared surplus.

2.6 Similarly, the prescribed authority, Fatehabad, vide a separate order dated 31.10.1980 (Annexure P-1 in CWP-3189-1993), held that Smt.

Piari Bai was owner of 528 *kanals* – 11 *marlas* 'C' grade area; which was 96 *kanals* – 11 *marlas* ('C' grade) more than the permissible area; accordingly, the same were declared surplus.

2.7 Feeling aggrieved against order dated 31.10.1980 (Annexure P-1 in CWP-3187-1993), Sh. Jyoti Ram, preferred an appeal before the learned Collector, Hisar. Similarly, Smt. Piari Bai also filed her separate appeal challenging order dated 31.10.1980 (Annexure P-1 in CWP-3189-1993), passed by the prescribed authority, Fatehabad. Both the afore-said appeals filed by Sh. Jyoti Ram, and Smt. Piari Bai, came to be dismissed by learned Collector, Hisar, vide a common order dated 22.09.1981 (Annexure P-2 in both writ petitions).

2.8 Still aggrieved, Sh. Jyoti Ram preferred a revision petition before the learned Commissioner, Hisar Division, Hisar under Section 18 of the 1972 Act. Similarly, Smt. Piari Bai also filed her separate revision petition; however, both the afore-said revision petition(s) came to be dismissed by learned Commissioner, Hisar Division, Hisar, vide a common order dated 21.11.1982 (Annexure P-3 in both writ petitions).

2.9 Being dissatisfied, Sh. Jyoti Ram preferred a second revision petition (***ROR No.68 of 1982-83***) before the learned Financial Commissioner, Haryana. Similarly, Smt. Piari Bai also filed her separate revision petition (***ROR No.69 of 1982-83***) before the learned Financial Commissioner, Haryana. Both the afore-said revision petitions came to be dismissed by learned Financial Commissioner, Haryana vide a common order dated 30.05.1989 (Annexure P-4 in both writ petitions).

3. In the afore-mentioned circumstances, the present writ petition(s) have been filed before this Court, seeking relief/s, as noticed here-in-above.

4. Learned counsel for the petitioner(s) submitted that the authorities under the 1972 Act, have failed to appreciate that the declaration form submitted by the land owners was not properly verified; therefore, the whole proceedings stand vitiated. It is further submitted that the land of the petitioner(s) was wrongly treated as ‘*tubewell irrigated*’ whereas, there was no tubewell at the spot, as the tubewell which was there, was not operational because its water was harmful. It is also submitted that the *bona fide* sales executed by the land owners have been wrongly ignored. On the basis of the afore-said submissions, it is prayed that the impugned orders may be set aside.

5. Per contra, learned counsel for the respondent-State has opposed the submissions made on behalf of the learned counsel for the petitioner(s). Learned State counsel has referred to para No.5 of the written statement, which reads as under :-

“5. That in reply to Para No.5, it is submitted that till the decision of this case i.e. 31.10.1981, the petitioner transferred the under mentioned land.

<i>No. & Date of Registration</i>	<i>Total land</i>	<i>Value</i>
<i>835/31.5.1977</i>	<i>1.31 acres</i>	<i>800.00</i>
<i>5002/7.3.1979</i>	<i>1.31 acres</i>	<i>700.00</i>
<i>5304/23.3.1979</i>	<i>1.0 acres</i>	<i>17820.00</i>
<i>3284/31.10.1979</i>	<i>6.0 acres</i>	<i>3000.00</i>
<i>3289/31.10.1979</i>	<i>3.0 acres</i>	<i>1500.00</i>
<i>1191/21.6.1971</i>	<i>12.12 acres</i>	<i>12000.00</i>

All the sales are not bona fide and according to Khasra girdavri of Kharif 1970, there was a tubewell in Khasra No.71//21. Hence no in-justice was done to the petitioner.”

5.1 While referring to the above-extracted para No.5 of the written statement, learned State counsel has submitted that the sale deeds executed by the big land-owners, were not *bona fide*. It is further submitted that

according to the *khasra girdawari* of *kharif 1970* , there was a tubewell in *khasra No.71//21* . It is contended that the tubewell was treated as per the *khasra girdawari* and in *Rabi 1971* , crop of wheat was irrigated from that tubewell. It is further contended that since the tubewell was run by a diesel engine, accordingly, it was taken as a tubewell of *7½ horse power* . As regards the sale deeds, a stand has been taken that the land owners did not execute all the sale deeds in favour of the tenants; rather the Sale deed bearing No.3284 dated 31.10.1979, Sale deed No.5002 dated 07.03.1979 and Sale deed No.3289 dated 31.10.1979 were executed in favour of those persons, who were not the tenants. It is stated that in the aforesaid sale deeds, even the sale considerations were very low, which show that the transfers were not *bona fide* . Further reference to Sections 8(3) and 9(3) of the 1972 Act, has been made to contend that all sales made after the appointed date (24.01.1971) were to be treated as sale by land-owners out of their permissible area.

5.2 In view of the afore-said submissions, prayer has been made for dismissal of the writ petitions.

6. Learned counsel appearing for the private respondents have also adopted the submissions raised on behalf of the learned State counsel.

7. Heard.

8. As regards the plea of the petitioner(s) that the land was wrongly treated as 'tubewell irrigated' as there was no tubewell at the spot; suffice it to say that the authorities under the 1972 Act, have recorded a categorical finding that the existence of tubewell is duly reflected in the revenue records and even a reference has been made to the *khasra girdawari* for the crops *Kharif 1972* and *Rabi 1971* . Furthermore, the petitioner(s) appear to have changed their stand during the course of the

proceedings by contending that although there is a tubewell but it never became operational [*refer para 9(ii)*]. The afore-said plea, in my considered view, duly corroborates the finding that there was a tubewell in *killa No.71//21*. So far as the plea of the petitioner(s) that the tubewell never became operational, it is observed that there is nothing on record to indicate that the above-referred tubewell was not operational. Rather, the contemporaneous revenue record, particularly *khasra girdawari* for *kharif-1970* and *Rabi-1971* , as relied upon by the authorities below, unequivocally records the land as *chahi* . Therefore, mere self-serving statement of the petitioner(s) that the tubewell was not operational, cannot be accepted.

8.1 As regards the second contention that the sales executed after the appointed date were Bonafide; suffice it to say that the petitioner(s) have failed to substantiate their said plea by way of any acceptable evidence. Except for one sale executed by Sh. Jyoti Ram, prior to the appointed date, all other transfers were admittedly effected after the appointed date i.e. 24.01.1971 and no material has been placed on record to show that such transfers were protected under any provision of the 1972 Act.

8.2 Further, in terms of Section 8(2) of the 1972 Act, the burden of proving transfer or disposition to be a *bona fide* one is on the transferor. In the present case, the petitioner(s), being the transferors of the various sale deeds executed after the appointed date i.e. 24.01.1971; have failed to show the *bona fide* nature of the transfers by referring to any material whatsoever.

8.3 Still further, the contention of the petitioner(s) that the entire proceedings are vitiated due to non-compliance of *Rule 6(3) of the Haryana*

Ceiling on Land Holdings Rules, 1973, is equally misconceived. From the record, it is evident that the land was duly verified by the competent revenue authorities. The learned Commissioner has specifically recorded a finding that the petitioner(s) could not prove that verification was not carried out in accordance with Rule 6(3).

9. In my considered view, the findings recorded by the Prescribed Authority, which have been affirmed successively by the learned Collector, learned Commissioner as well as learned Financial Commissioner, are based on proper appreciation of the record and the statutory provisions. No perversity, illegality, or jurisdictional error has been pointed out; which may warrant interference by this court in the exercise of its writ jurisdiction under Articles 226 and 227 of the Constitution of India.

10. No other point has been urged.

11. Considering the totality of circumstances, I find no merit in these writ petitions and the same are accordingly, dismissed.

12. The present writ petition(s) stand disposed of in the afore-stated terms.

13. All pending applications (if any) shall also stand closed.

14. A photocopy of this order be placed on the file of another connected case.

December 17, 2025
Gurpreet/Apurva

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No