

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

Civil Writ Petition No.11958 of 1993

Date of Decision: 05.08.2015

Mange Ram and others

..... Petitioners

Vs.

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Gaurav Mohunta, Advocate and
Mr. Gaurav Gogna, Advocate for the petitioners.

Mr. Rajesh K. Sheoran, Additional Advocate General, Haryana
for the respondents.

JASWANT SINGH, J. (Oral)

One Ranjit Singh, resident of Village Karora, Tehsil and District Kaithal owned 41.67 standard acres of land when the Punjab Security of Land Tenures Act, 1953 (for short '1953 Act') was enforced. The Prescribed Authority, Kaithal, vide *Ex parte* order dated 15.09.1960, declared 11.67 standard acres to be the surplus area at the hands of the big land owner-Ranjit Singh after allowing the permissible area of 30 standard acres.

It appears neither the possession of the declared surplus area was retrieved by the Government nor mutation in favour of the State Government was made. This fact becomes apparent from a perusal of the decree dated 05.12.1969 (**Annexure P-1**), passed by the learned Sub Judge 1st Class, Kaithal, whereby the ownership of the entire land (including the declared surplus area) owned by the Ranjit Singh as recorded in the *Jamabandi* 1966-67 was conferred on his two plaintiff-sons. Ranjit Singh had died on 26.05.1978 and thereafter his two sons, namely, Chandgi Ram and Mange Ram having become owners of the entire land on

the strength of the decree dated 05.12.1969 (**P-1**), filed an application before the Prescribed Authority, Kaithal for setting aside the *ex parte* order dated 15.09.1960 and for redetermination of their respective surplus area being small land owners. The application was allowed by the Prescribed Authority, Kaithal, vide order dated 05.07.1979 (**Annexure P-2**), whereby except 20 Kanals and 3 Marlas utilized and allotted to two persons namely Karta and Jia under the allotment scheme of 1976 for the landless, the remaining area was ordered to be reverted back in the ownership of the two small land owners.

After a period of almost 8-9 years, the State filed a revision under Section 18 (6) of the Haryana Ceiling on Land Holdings Act, 1972 (for short '1972 Act') praying for invoking of *suo motu* powers of the Financial Commissioner for determining the legality of the order dated 05.07.1979 (**P-2**).

The Revisional Authority, vide impugned order dated 09.11.1990 (**Annexure P-3**), has set aside the order (**P-2**) while upholding the initial *ex parte* order dated 15.09.1960 declaring the area of 11.67 standard acres to be surplus land at the hands of Ranjit Singh. Hence, the present writ petition has been filed by the legal heirs of big land owner-Ranjit Singh impugning order dated 09.11.1990 (**P-3**).

The writ petition was admitted on 29.09.1993 and stay of the operation of the impugned order (**P-3**) was confirmed, vide order dated 09.11.1993.

Learned Counsel for the petitioners has argued that since there was no misrepresentation or fraud on the part of either the original big land owner-Ranjit Singh or his successors-in-interest, therefore, the revisional jurisdiction against the order (**P-2**) could not be invoked after a delay of 8-9 years. In support, he has cited a judgment of the Hon'ble Supreme Court in **Loku Ram Vs. State of Haryana, 2000 (1) R.C.R. (Civil) 141**.

On the other hand, learned State Counsel for the respondents while addressing the arguments has reiterated the reasoning adopted by the Revisional Authority in the impugned order (P-3) as also submitted that the big land owner-Ranjit Singh was duly served through his son-Mange Ram at the time of passing of ex parte order dated 15.09.1960 declaring 11.67 standard acres as surplus.

After hearing learned Counsel for the parties, this Court is of the opinion that the present writ petition is liable to be allowed.

It is not in dispute that it has been authoritatively held by the Hon'ble Supreme Court in the cited case of **Loku Ram (supra)** that the *suo motu* revisional jurisdiction under Section 18 (6) of the 1972 Act cannot be invoked at any time and the exercise of such power has to be within reasonable time depending upon facts of the case.

In the present case, it is evident that the order dated 05.07.1979 (P-2), passed by the Prescribed Authority, Kaithal was passed in the presence of Naib Tehsildar, Agrarian, Kaithal, who has to be acknowledged to be aware of the entire record, as also the provisions of the surplus law. It is not the case of the respondents-State that there was any foul play committed by the officials or by the petitioners in the present case. In such circumstances, the delay as in the present case in invoking the *suo motu* revisional powers has to be held unreasonable being squarely covered by the ratio of the judgment in **Loku Ram's case (supra)**. Accordingly, order dated 09.11.1990 (P-3) is liable to be set aside.

It is also an undisputed position that the possession of the Ranjit Singh and his successors-in-interest over the land in question has never been disturbed by the State to date, therefore, it will be highly inequitable to now after 55 years dislodge them from the land in question/ancestral land.

Even the plea of service upon Ranjit Singh through his son Mange Ram would not be liable to be accepted since it is not shown that the said Mange Ram was an adult on the date of the service.

In view of the aforesaid facts taken cumulatively, the present writ petition is allowed and impugned order dated 09.11.1990 (**P-3**) is set aside.

August 05, 2015

Gagan

(JASWANT SINGH)
JUDGE