

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.16817 of 1992
Date of decision: 27.08.2016

Dalip Singh (deceased) through LRs

... Petitioners

Vs.

State of Punjab

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Deepali Saini, Advocate for
Mr. J.S. Brar, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. AG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned orders passed by the revenue authorities of the respondent State, petitioner Dalip Singh approached this Court, by way of instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned orders.

The writ petition was admitted for regular hearing, vide order dated 18.12.1992 passed by a Division Bench of this Court and dispossession of the petitioner was stayed. However, no written statement has been filed on behalf of the respondent State of Punjab.

Heard learned counsel for the parties.

A bare reading of the impugned orders would show that Collector, Ferozepur vide his order dated 30.04.1976 (Annexure P-1) declared the land measuring 1.58 hectares, the first quality land equivalent to 31 kanals, as surplus in the hands of Dalip Singh son of Manha Singh. Reading of subsequent

orders would make it clear that proceedings of surplus area case remained pending at one or the other stage and finally before this Court by way of present writ petition. It is also a matter of record that during pendency of the instant writ petition, petitioner Dalip Singh died and his legal representatives were permitted to be brought on record vide order dated 16.09.2015 passed by this Court in CM No.12221-CWP of 2015.

The controversy involved herein has been set at rest by a Full Bench judgment of this Court in **Sardara Singh and others Vs. The Financial Commissioner and others, 2008 (2) RCR (Civil) 744**. When confronted with the abovesaid undisputed fact situation, learned counsel for the State had no answer and rightly so, it being a matter of record. In the facts and circumstances of the case, present case would be squarely covered in favour of the petitioners by the Full Bench judgment of this Court in **Sardara Singh's** case (supra).

Relevant observations made by the Hon'ble Full Bench in para 42 of its judgment in **Sardara Singh's** case (supra), which can be gainfully followed in the present case, read as under: -

“Resultantly, where the surplus area has not been finally determined, and the matter is pending in appeals or revisions before the Revenue Courts or before this Court under Article 226 of the Constitution, or before the Supreme Court of India, death of the landowner would cause affectation of surplus area which would be required to be redetermined in the hands of the heirs of the deceased landowner. Such an interpretation would harmoniously construct the provisions of Section 11(5) and 11(7) and also give a proper interpretation to both the views expressed in Ajit Kaur's case. However, we are unable to uphold the judgments of this Court in Jasbir Kaur's case because Ajit Kaur's

case was not at all considered by the Hon'ble Division Bench. As regards Manjit Kaur's case, even though Ajit Kaur's case was considered, the majority view had been entirely overlooked."

When the abovesaid ratio of the law laid down by the Hon'ble Full Bench of this Court in **Sardara Singh's** case (supra), is applied to the facts of the present case, the inevitable conclusion is that the present writ petition deserves to be allowed.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders are liable to be set aside and the present writ petition deserves to be accepted. Consequently, the impugned orders passed by the revenue authorities of the respondent State, are hereby set aside.

However, it is made clear that revenue authorities of the respondent State would be at liberty to re-determine the surplus area case, in the hands of present petitioners who are legal representatives of original big land owner late Sh. Dalip Singh, in accordance with law and also keeping in view the abovesaid law laid down by the Hon'ble Full Bench of this Court in **Sardara Singh's** case (supra).

Resultantly, with the abovesaid observations made, instant writ petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

27.08.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No