

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 17494 of 1994

Date of Decision: 21.7.2016

Ajit Singh (now deceased) through his Legal representatives and others

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. P.N. Aggarwal, Advocate and
Mr. Kartik Gupta, Advocate
for the petitioners.

Mr. Yatinder Sharma, Additional A.G. Punjab.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the impugned orders dated 10.3.1989 (Annexure P-2), 10.3.1989 (Annexure P-3), 1.8.1989 (Annexure P-4) and 30.8.1994 (Annexure P-5) passed by the respondent authorities, whereby the land in the hands of late Sh. Ajit Singh son of Rattan Singh, was declared as surplus area.

It has gone undisputed between the parties and is also a matter of record that during the pendency of the present writ petition, Sh. Ajit Singh-petitioner has since died on 5.7.1996. In this view of the undisputed fact situation, learned counsel for the petitioners submits that present case is squarely covered by a Full Bench judgment of this Court in **Sardara Singh Vs. Financial Commissioner, 2008 (2) Law Herald (P&H) 961**, and the

surplus area case for the land in the hands of legal representatives of late Sh. Ajit Singh, who have already been brought on record in the present writ petition, has to be decided afresh.

Having been confronted with the abovesaid fact situation and the law laid down by the Hon'ble Full Bench of this Court in **Sardara Singh's case** (supra), learned counsel for the State could not deny the applicability of law laid down in **Sardara Singh's case** (supra), squarely covering the present case and rightly so, it being a matter of record.

The relevant observations made in para 44 of the judgment in **Sardara Singh's case** (supra), 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.”

In view of the above, present writ petition deserves to be accepted and the same is hereby allowed. The impugned orders Annexures P-2 to P-5 passed by the respondent authorities are set aside with a direction to the competent authority, whosoever he may be, to decide the surplus area case afresh qua the land in the hands of legal representatives of late Sh. Ajit Singh by passing an appropriate order afresh, in accordance with law.

Pending civil miscellaneous application, if any, also stands disposed of.

With the abovesaid observations made and directions issued, present petition stands disposed of.

(RAMESHWAR SINGH MALIK)
JUDGE

21.7.2016
Ak Sharma