

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5089 of 1994
Date of decision: 01.09.2016

Bachitar Singh (deceased) through LRs

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. P.P.S. Duggall, Advocate
for the petitioner.

Ms. Monica Chhiber Sharma, DAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Learned counsel for the petitioner, at the very outset, submits that present case is squarely covered by the Full Bench judgment of this Court in **Sardara Singh and others Vs. The Financial Commissioner and others, 2008 (2) RCR (Civil) 744**. He prays for allowing the present writ petition in view of the law laid down by the Full Bench of this Court in **Sardara Singh's** case (supra).

Faced with the above, learned counsel for the State could not controvert the factual aspect of the statement made by learned counsel for the petitioner and rightly so, it being a matter of record.

It is also not in dispute that Bachitar Singh-petitioner was the

original big land owner, who died during pendency of the present writ petition and his legal representatives were brought on record by this Court, vide order dated 20.09.2013 passed in CM No.4674 of 2013.

The ratio of law laid down 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, reads 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.”

No other argument was raised.

In view of the abovesaid undisputed fact situation obtaining on record of the present case, instant writ petition is allowed and the impugned orders passed by the respondent revenue authorities are hereby set aside.

However, it will be open to the respondent authorities to re-determine the

surplus area case in the hands of legal representatives of late Sh. Bachitar Singh, however, strictly in accordance with law.

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

01.09.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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