

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

**Civil Writ Petition No. 2761 of 1997
Date of Decision: 1.12.2016**

Rajdev Singh (since deceased) through Lrs

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : None for the petitioners.

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

RAMESHWAR SINGH MALIK J. (ORAL)

It is a matter of record that this case pertains to the declaration of surplus area. Orders declaring the land as surplus area did not attain finality, as the matter was pending consideration before this Court. During the pendency of the present writ petition, petitioner-Sh. Rajdev Singh died and his legal representatives were brought on record, vide order dated 15.12.2004 passed in CM No. 21647 of 2004.

In view of the abovesaid fact situation obtaining on record of the present case and after hearing learned counsel for the State, present writ petition has been found 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.**

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The relevant observations made by the Hon'ble Full Bench in para 44 of its 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, natural consequence would be that the impugned orders cannot be sustained and the same are hereby set aside. However, the respondent revenue authorities would be at liberty to decide the surplus area case afresh in the hands of legal representatives of Late Sh. Rajdev Singh, by passing an appropriate order, however, strictly in accordance with law.

Disposed of, accordingly.

1.12.2016
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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