

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

LPA No.2049 of 2016 (O&M)

Date of Decision: 11.09.2018

Virsa Singh & Ors.

...Appellants

VS.

State of Punjab & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Amarjit Markan, Advocate for the appellants

Mr. Rajesh Bhardwaj, Sr.DAG Punjab

SURYA KANT J. (Oral)

(1) The instant Letters Patent Appeal is preferred against the order dated 24.08.2016 whereby the writ petition filed by appellants challenging the order dated 22.07.2015 of the Financial Commissioner, Revenue, Punjab has been dismissed *in limine* though by way of a reasoned order. The Financial Commissioner, Revenue, vide the said order declined to protect the title and possession of the appellants as *bona fide* purchasers of the land which had been allegedly declared surplus in the hands of big landowner.

(2) It appears that one Pritpal Singh was a big landowner and part of his land was declared as surplus area vide order dated 08.11.1962. A supplementary order was thereafter passed on 04.10.1978 whereby, specific khasra Nos. were declared as surplus area in his hands.

(3) It emerges out that the big landowner sold a part of the land within the revenue estate of village Harchandpura vide registered sale deeds dated 10.08.1970 to different persons. It further appears that physical possession of the land declared surplus in the hands of Pritpal Singh was never taken by the State of Punjab as no specific order to this effect is

available on file. Pritpal Singh died on 05.12.1983 and subsequently his successors-in-interest as well as the vendees continued to retain physical possession of the land declared surplus in the hands of deceased landowner. It was after decades that notice dated 06.10.2004 (P3) was served on a set of vendees declaring that they were in illegal possession of the land which was declared surplus in the hands of Pritpal Singh. The said notice was set aside by the Commissioner, Patiala Division, Patiala on 15.06.2005 (P4) but on further reference, the Financial Commissioner, Revenue set aside the order of the Commissioner, Patiala Division on 22.07.2015 (P1). The said order of Financial Commissioner, Revenue has been upheld by learned Single Judge vide order under appeal dated 24.08.2016. Still aggrieved, the appellants have preferred this Letters Patent Appeal.

(4) The question which falls for consideration is whether the physical possession of the surplus land was ever taken by the State of Punjab under the PEPSU Tenancy & Agricultural Lands Act, 1955 or the Punjab Land Reforms Act, 1972, and if not, what is its legal effect?

(5) The aforesaid question, in our considered view, requires re-consideration by learned Single Judge especially keeping in view the fact that there is no deeming fiction created by the Legislature in the State of Punjab for vesting of possession in the State as soon as the land is declared as surplus area. It is not expedient for this Court to express any views on merits at this stage, for the writ petition was dismissed *in limine* without even calling for the reply from the State authorities.

(6) For the reasons afore-stated, the appeal is allowed to the extent that the order under appeal dated 24.08.2016 is set aside and the matter is

remitted to learned Single Judge to decide the same afresh and in accordance with law.

(7) Parties shall continue to maintain *status quo* till the matter is decided by learned Single Judge afresh.

(8) Parties are directed to appear before learned Single Judge on 24.09.2018. The official respondents shall be at liberty to file written statement on the date fixed or within one month thereafter.

(Surya Kant)
Judge

11.09.2018

vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No