

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

Sr. No. 113

**CWP-19049-2022 (O&M)  
Date of decision : 09.09.2022**

Mandir Sita Mai

..... Petitioner

VERSUS

The Deputy Commissioner, Karnal

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. R.D. Bawa, Advocate, for the petitioner.

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**SUDHIR MITTAL, J. (Oral)**

This writ petition has been filed by the Mandir seeking quashing of order dated 02.12.2021/07.12.2021 passed by the Deputy Commissioner, Karnal. Vide the said order, applications filed by the Mandir requesting the Deputy Commissioner to file applications for collection of rent from the tenants have been rejected on the ground that the Management having been handed over to the newly constituted Committee comprised of inhabitants of village Sita Mai, he is no longer competent to act in the matter. The Managing Committee may take steps to collect the rent.

Learned counsel for the petitioner submits that the observation aforementioned is only regarding the land allotted to the Mandir as permissible area. The land which has been declared surplus and has not been allotted to anybody, is also in possession of the State Government through tenants and the application was in respect of the said land as well. The Deputy Commissioner has ignored this huge chunk of land measuring about 2300 kanals. The petitioner had filed application under Section 14 of the Punjab Security of Land

of the tenants for non-payment of rent. The applications were rejected by the Assistant Collector, First Grade finding that there is no relationship of landlord and tenant between the parties as the land had been declared surplus. This order was reversed in an appeal filed before the Collector and the matter was remanded for a fresh decision. Revision filed before the Commissioner failed and finally, the Financial Commissioner was approached who passed order dated 12.07.1989 holding that the petitioner was entitled to payment of rent until the land had been utilized by the State Government by way of allotment to the persons entitled in view of **Jodha Ram (Dead) by LRs. Vs. Financial Commissioner, Haryana, Chandigarh and others, 1994 P.L.J 28**. This judgment was upheld by a Division Bench of this Court as writ petition filed there-against was dismissed vide order dated 26.10.1999 passed in CWP-14889-1999. Thus, the petitioner was entitled to payment of rent in respect of surplus land also and this aspect of the case has been ignored by the Deputy Commissioner.

With the assistance of the learned counsel for the petitioner, I have read the judgment in **Jodha Ram (supra)**. In the said case, the Supreme Court has held that under the Punjab Act, there is no provision of vesting of surplus area and thus, the landlord continues to hold title to the surplus land until and unless it is allotted to an eligible person. In the instant case, land was declared surplus under the Punjab Act vide order dated 21.12.1964. Thereafter, the Haryana Ceiling of Land Holding Act 1972 (hereinafter referred to as the 1972 Act) has come into force and Section 12 (3) thereof clearly states that land declared surplus under the Punjab Act vests in the State with effect from the appointed day i.e. 24.01.1971. Thus, the surplus land of the petitioner has

Applications for eviction on the ground of non-payment of rent were admittedly filed after coming into force Haryana Act and the petitioner cannot draw any benefit of any observations made by the Financial Commissioner. The said authority has failed to take into consideration the coming into force of the 1972 Act and the effect thereof. The order of the Division Bench with utmost respect cannot be considered to be a precedent as the order of the Financial Commissioner has been upheld by passing a short order dismissing the writ petition. All that has been said therein, is that the surplus land having vested in the State Government, the order of the Financial Commissioner does not demand any interference.

At this stage, learned counsel for the petitioner submits that the order of declaration of surplus area has not become final as writ petitions challenging the same are pending in this Court.

Accordingly, it is clarified that in case, the writ petitions filed by the petitioner are allowed, it would be at liberty to collect rent from the tenants with effect from the date of filing of the application subject matter of the present writ petition.

With the aforementioned observations, the writ petition is dismissed.

**(SUDHIR MITTAL)**  
**JUDGE**

**09.09.2022**

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No