



RSA-165-1993(O&M)

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

RSA-165-1993(O&M)

Reserved on : 09.01.2025

Date of decision: 16.01.2025

Jagat Singh and others

..Appellants

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Sonia G Singh, Advocate for the appellant

Mr. Shivendra Swaroop, DAG, Haryana

ANIL KSHETARPAL, J.

1. Factual background:-

1.1 The plaintiffs assail the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for declaration with consequential relief of permanent injunction. In substance, the plaintiffs are heirs of late Sh.Loti, who was a big landowner. As per the provisions of the Punjab Security of Land Tenure Act, 1953 (hereinafter referred to as '1953 Act') the Collector, Karnal vide orders dated 17.08.1960, 11.02.1963 and 10.08.1963 declared that Sh.Loti is a big landowner who owns land beyond the prescribed ceiling limit. Hence, his land was declared surplus.

1.2 On 22.12.1972 after receiving the consent of the President of India, the Haryana Ceiling on Land Holdings Act, 1972 (hereinafter referred to as '1972 Act') was enacted. As per the aforesaid Act, appointed day of

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enforcement was 24th Day of January, 1971. Section 12 of '1972 Act' provides for vesting of surplus area in the State which reads as under:-

"12. VESTING OF SURPLUS AREA. --(1)

The surplus area of a landowner shall, (from the date on which it is declared as such shall be deemed to have been acquired by the State Government for a public purpose) (Vide Act No. 17 of 1976) and all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time being in force) of all persons in such area shall stand extinguished and such rights, title and interest shall vest in the State Government free from any encumbrance: Provided that where any land within the permissible area of the mortgagor is mortgaged with possession and falls within the surplus area of the mortgagee, only the mortgagee rights shall be deemed to have been acquired by the State Government and the same shall vest in it.

(2) The right and interest of the tenant in his surplus area which is included within the permissible area of the landowner shall stand extinguished.

(3) The area declared surplus or tenant's permissible area under the Punjab law and the area declared surplus under the Pepsu Law, which has not so far vested in the State Government, shall be deemed to have vested in the State Government with effect from the appointed day and the area which may be so declared under the Punjab Law or Pepsu Law after the appointed day shall be deemed to have vested in the State Government with effect from the date of such declaration. (Vide Act No. 40 of 1976)

(4) For the purpose of determining the surplus area under this Act, any judgment, decree or order of a court or other authority, obtained after the appointed day and



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having the effect of diminishing the surplus area shall be ignored.”

1.3 Sh.Loti died on 05.04.1978. This suit was filed on 11.03.1986 claiming that the surplus land has never been utilized and therefore, the land is required shall be reverted to Sh.Loti's heirs for fresh assessment.

1.4 Both the courts have refused to accept the contention of the plaintiffs while relying upon the judgments passed by a Full Bench in **Jaswant Kaur and another vs. State of Haryana and another, 1977 PLJ 230** wherein it was held that full effect should be given to Section 8(1) upto 23.12.1972 which signifies that if the landowner dies before 23.12.1972 then the surplus land is subject to inheritance by the legal heirs but if the land owner dies after 23.12.1972, then saving clause 8(1) of the 1972 Act is not applicable.

2. Arguments put forth by the learned counsel representing the parties:-

2.1 Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

2.2 Learned counsel representing the appellant relies upon the judgments passed by the Supreme Court in **Financial Commissioner Haryana vs. Kela Devi 1980 AIR (SC) 309** and **Bhanti Devi and others vs. State of Haryana and others 2012 (1) PLR 586**.

3. Discussion and analysis:-

3.1 This Court has considered the submissions made by the learned counsel representing the parties.

3.2 It is important to first analyse the statutory provisions. Section 12 (3) of 1972 Act provides for vesting of land with effect from 24.01.1971

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in the State Government if the area was declared surplus under the Punjab Law or PEPSU Act before 24.01.1971 with effect from the appointed day i.e 24.01.1971.

3.3 In **Sampuran Singh vs. State of Haryana and others 1994 (2) SCC (Supp) 206** the Court held that re-computation of such area on attainment of majority by the minor sons was not permitted under 1972 Act. While interpreting Section 12 (3), the Court held that on and after 23.12.1972 the surplus land shall stand vested in the State under Section 12 (3) of the 1972 Act free from all encumbrances and even if the big landowner or his heirs or his family remained in possession, it does not create any right in them to claim any title in such surplus land.

3.4 In **Bhagwanti Devi and others vs. State of Haryana and another 1994(3) SCC(Suppl)101**, the Supreme Court once again interpreted Section 12 (3) of the 1972 Act to hold that there is no provision that allows re-opening of the proceedings related to surplus land which had already become final.

3.5 Similarly, in **Amar Singh and others vs. Ajmer Singh and others 1994 (3) SCC (Supp) 213** a same view was taken. A Division Bench in **State of Haryana and others vs. Birsala and others 2004 (1) PLR** held that unutilized land does not require redetermination of surplus area in the hands of the families of big landowners on enactment of the 1972 Act. The judgment passed by learned Single Judge was set aside. The Division Bench while relying upon **Bhagwanti Devi's case (supra)** held that language of Section 12 (3) is unequivocal and clear to the effect that surplus lands



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declared under the 1972 Act stand vested in the State and non-utilization of surplus land till the date of vesting till 23.12.1972 is not material.

3.6 The first judgment relied upon by the appellant's counsel is distinguishable because in that case a big landowner died in the year 1965 i.e before the enforcement of 'the 1972 Act'. Moreover, the Supreme Court in **Kela Devi's case (supra)** laid down that the process of allotment of surplus area is complete only when the possession thereof is taken by the allottee and other formalities are completed.

3.7 Similarly, in **Bhanti Devi's case (supra)** the Court held that if the order declaring the surplus area has not become final on account of pendency of appeal or revision, under the Punjab Act, then the land shall not vest in the State. Hence, the judgment passed in **Bhanti Devi's case (supra)** is also distinguishable and not applicable to the facts of the present case.

4. Decision:-

4.1 Keeping in view the aforesaid settled position of law, there is no ground to interfere with the concurrent findings of fact. Hence, the appeal is dismissed.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

16.01.2025

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No