



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

CWP-5383-1994(O&M)
Date of decision : 24.04.2025

DALIP SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB
AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. P.S. Khurana, Advocate
Mr. Ajay Kamboj Gurpreet, Advocate
and Ms. Karanjot Kaur, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J.

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 17.05.1984 (Annexure P-1) passed by the learned Collector (Agrarian), Abohar; order dated 27.01.1987 (Annexure P-2) passed by the learned Commissioner, Ferozepur Division, Ferozepur and also the order dated 04.11.1993 (Annexure P-3) passed by the learned Financial Commissioner (Appeals), Punjab.

2. Briefly, one Sh. Lal Singh (father of the petitioner) was a big landowner, who died on 23.07.1980 and upon the demise of said Lal Singh, some area was inherited by petitioner-Dalip Singh.

2.1 The learned Collector, Agrarian, Abohar initiated proceedings under the Punjab Land Reforms Act, 1972 (for short 'the 1972 Act') as

regards the determination of surplus area in the hands of Dalip Singh. The learned Collector (Agrarian), Abohar, vide his order dated 17.05.1984 (Annexure P-1) declared 2.31.63 hectares area as surplus in the hands of petitioner-Dalip Singh.

2.2 Feeling aggrieved against the afore-said order dated 17.05.1984 (Annexure P-1) passed by the learned Collector (Agrarian), Abohar, the petitioner preferred an appeal before the learned Commissioner, Ferozepur Division, Ferozepur, which was also dismissed vide order dated 27.01.1987 (Annexure P-2).

2.3 A further revision petition filed by the petitioner before the learned Financial Commissioner, was also dismissed on 04.11.1993 (Annexure P-3).

2.4 In the afore-mentioned circumstances, the present writ petition has been filed before this Court.

3. The argument raised by learned counsel for the petitioner is that the authorities below have erred in law and fact in passing the impugned orders, without appreciating the fact that the petitioner had acquired land by way of inheritance upon the demise of his father-Lal Singh, in the year 1980 and therefore, his entitlement of area has been wrongly determined in reference to the appointed date under the 1972 Act i.e. 24.01.1971. It is submitted that the petitioner had a family of six members, as under :-

- (i) *petitioner-Dalip Singh;*
- (ii) *petitioner's wife;*
- (iii) *Maya Rani, daughter (date of birth :10.04.1974);*
- (iv) *Parminder Singh, son (date of birth : 21.04.1977);*
- (v) *Barjinder Singh, son (date of birth : 05.03.1980);*
- (vi) *Vinu, daughter (date of birth : 13.11.1981)*

3.1 It is, thus, contended that the petitioner was deprived of the benefit of one additional member in the family. Accordingly, it is prayed that the impugned orders may be set aside and the matter may be remitted to the learned Collector (Agrarian), Abohar for fresh determination.

4. Per contra, learned State counsel has opposed the submissions made on behalf of the petitioner by submitting that under the 1972 Act, the appointed date for determining the surplus area is 24.01.1971 and in the present case, the father of petitioner namely, Sh. Lal Singh, expired on 23.07.1980 and upon his demise, the petitioner had acquired certain area by way of inheritance. It is, thus, submitted that in the present case, the relevant date for determining of surplus area in the hands of the petitioner would be 23.07.1980, and on the said date, the petitioner's family consisted of only five members; therefore, the petitioner is not entitled to the benefit of one additional member of the family.

4.1 With the afore-said submissions, the prayer for dismissal of the writ petition has been made.

5. I have heard learned counsel for the parties and have perused the paper-book with their able assistance.

6. Here it would be apposite to refer to certain provisions of the Act, 1972, which reads as under :-

"Section 3. Definitions. - In this Act, unless the context otherwise requires, -

(1) "appointed day" means the twenty-fourth day of January 1971;

xxx

xxx

xxx

(4) "family" in relation to a person means the person, the wife or husband, as the case may be, of such person and his or her minor children, other than a married minor daughter;

(5) "Land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes -

(a) the sites of buildings and other structures on such land, and

(b) banjar land;...

(10) "person" includes a company, family, association or other body of individuals whether incorporated or not, and any institution capable of holding property;....

(15) "Surplus area" means the area in excess of the permissible area."

"Section 4. Permissible area - (1) Subject to the provisions of Section 5, no person shall own or, hold land as landowner or mortgage with possession or tenant or partly in one capacity and partly in another in excess of the permissible area.

(2) Permissible area shall mean in respect of -

(a) land under assured irrigation and capable of yielding at least two crops in a year (hereinafter in this Act referred to as 'the first quality land') seven hectares; or

(b) land under assured irrigation for only one crop in a year, eleven hectares; or

(c) barani land, 20.5 hectares; or

(d) land of other classes including banjar land, an area to be determined accordingly to the prescribed scale with reference to the intensity of irrigation, productivity and soil classification of such classes, having regard to the respective valuation and the permissible area of the classes of land mentioned at (a), (b) and (c) above (subject to the condition that the area so determined shall not exceed 21.8 hectares):

Provided that -

(i) where land consists of two or more classes, the permissible area shall be determined on the basis of

relative valuation of such classes of land, subject to the condition that it does not exceed 21.8 hectares;

(ii) where the number of member of a family exceeds five, the permissible area shall be increased by one-fifth of the permissible area for each member in excess of five, subject to the condition that additional land shall be allowed for not more than three such members.

(3) Notwithstanding anything contained in sub-section (2), where any land is comprised in an orchard (on the appointed day), such land shall, for the purpose of determining the permissible area, be treated as barani land.

(4) (a) where a person, is a member of a registered cooperative farming society, his share in the land held by such society together with his other land, if any, or if such person is a member of a family, together with the land held by every member of the family shall be taken into account for determining the permissible area;

(b) where a person is a member of a family, the land held by such person, together with the land held by every other member of the family, whether individually or jointly, shall be taken into account for determining the permissible area.

(5) In determining the permissible area, any land which was transferred by sale, gift or otherwise, other than a bona fide sale or transfer, after the appointed day but before the commencement of this Act, shall be taken into account as if such land had not been transferred and the onus of proving the transfer as bona fide shall be on the transferor.

(6) For the purpose of valuation of land one and quarter hectares of banjar land shall be treated as equivalent in value to one hectare of barani land.

(7) For evaluating the land of any person at any time under this Act, the land owned by him immediately before the commencement of this Act as well as the land acquired by him after such commencement by inheritance, bequest or gift from a person to whom he is an heir shall be evaluated as if the evaluation was being made on the appointed day and the land

acquired by him after such commencement in any other manner shall be evaluated as if the evaluation was being made on the date of such acquisition.

"Section 5. Selection of permissible area and furnishing of declaration by certain persons. – Every person, who on the appointed day or at any time thereafter, owns or holds land as landowner or mortgagee with possession or tenant or partly in one capacity and partly in another in excess of the permissible area, shall select his permissible area and intimate his selection to the Collector, and where land is situate in more than one district, to the Collectors concerned, through a declaration, to be furnished in such form and manner and within such period, as may be prescribed and if such person has an adult son or adult daughter, he shall also be entitled to select separate permissible area in respect of each such son or daughter, as the case may be, out of the land owned or held by him, subject to the condition that the land so selected together with the land already owned or held by such son or daughter, shall not exceed the permissible area of each such son or daughter :

Provided that where land is situated in more than one patwar circle, the declaration shall be supported by an affidavit in the prescribed form.

(2) In making the selection, such a person shall include, firstly land mortgaged without possession and, secondly, land under self-cultivation on the date of commencement of the period prescribed for furnishing the declaration under sub-section (1), but shall not include area declared surplus under the Punjab law, the Pepsu law or this Act, other than the area which was exempt from utilisation by the State Government immediately before such commencement."

7. A perusal of sub-section 7 of Section 4 of the 1972 Act, clearly indicates that for evaluating the land of any person at any time under the 1972 Act, the land owned by him immediately before the commencement of the 1972 Act as well as the land acquired by him after such

commencement by inheritance, bequest or gift from a person to whom he is an heir shall be evaluated as if the evaluation was being made on the appointed date and the land acquired by him after such commencement in any other manner shall be evaluated as if the evaluation was being made on the date of such acquisition.

7.1 When the case in hand is seen in the light of sub-section 7 of Section 4 of the 1972 Act, it would be apparent that the father of the petitioner namely, Sh. Lal Singh, expired on 23.07.1980 and that is the day when the petitioner acquired certain area by way of inheritance. It is not disputed before this Court that one of the daughters of the petitioner, was born on 13.11.1981 i.e. much after the date when the petitioner had acquired land by way of inheritance from his father on 23.07.1980. Therefore, on that day i.e. 23.07.1980, the family of the petitioner consisted of only five members. Hence, the petitioner would not be entitled to the benefit of *proviso* (ii) to sub-section 2 of Section 4 of the 1972 Act, for claiming increased permissible area to the extent of 1/5, on account of the fact that the number of members of the family exceeds five.

8. Keeping in view the above discussion, I find no merit in this petition and the same is accordingly dismissed.

9. All pending application/s, if any, shall also stand closed.

April 24, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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