



RSA-1239-2022 (O&M)

-1-

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

119

RSA-1239-2022 (O&M)

Date of Decision : 07.05.2025

SOHAN LAL AND ANOTHER

.... Appellants

Versus

SHER SINGH AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Krishan Singh, Advocate
for the appellants.

SUVIR SEHGAL J.

1. Appellants-plaintiffs are in second appeal assailing concurrent finding recorded by the two courts below.

2. Pledged case of the plaintiffs is that one Jassu Ram was owner of suit land measuring 6 kanals 10 Marlas in the revenue estate of village Hasanpur, District Palwal. The suit land along with some other land owned by him was declared surplus by the Collector, Palwal under the Punjab Security of Land Tenures Act, 1953 (for short "the Act of 1953"). Land measuring 40-11/1-2 acre was declared surplus and vested in the State of Haryana-defendant No.5. In the declaration form 'F' Khasra No. 3082(0-16) was also mentioned as the surplus area. New khasra number allotted to this land is khasra No.101-21-2 measuring 6 Kanals 10 Marlas. It has been pleaded that Ramji Lal, plaintiff's father



was a tenant in possession of the suit land and other chunk of land measuring 5 bighas and 06 biswas. He filed an application under Section 18 of 1953 Act, which was accepted by order dated 14.01.1973 and he was authorized to purchase land measuring 31 Kanals 07 Marlas including the suit land on payment of Rs. 5274/- which was deposited by him. It has been pleaded that plaintiff's father was also tenant in possession of the suit land in rectangle No.101 Killa No. 21, measuring 06 kanals 10 marlas but due to oversight this khasra number could not be mentioned in the application filed before the Collector. After the death of Jassu Ram his sons Shiv Dayal and Govind Ram inherited the suit land and their names were entered in the revenue record. Plaintiffs were being mentioned as the tenants in possession of the suit land. It has been averred that the names of the sons of Jassu Ram were being wrongly shown as owners as the land had already vested in the State Government. Govind Ram alienated the suit land in favour of defendants No.1 to 4 vide sale deed dated 16.08.1989 and the vendees tried to dispossess the plaintiffs. A suit for declaration and permanent injunction bearing civil suit No. 671/2000 was filed by them. Suit was dismissed by the trial Court but vide judgment dated 13.03.2009, learned Additional District Judge, restrained the said defendants from interfering in the possession of the plaintiffs. Plaintiffs have averred that due to inadvertence, plea of purchase of surplus land by their father, which was not to their knowledge at that time, could not be pleaded in the previous suit. Claiming that the right to purchase the land still subsists, plaintiffs have filed the



instant suit. They have also challenged the sale deed dated 16.08.1989 executed in favour of defendants No.1 to 4, besides seeking relief of permanent injunction restraining the defendants from interfering in their possession.

3. Upon being served, defendants No. 1 to 4 filed a written statement contesting the suit. They denied the tenancy of Ramji Lal as well as the allotment of land in his favour. Reference has been made by them to the judgment dated 13.02.2009, passed by learned Additional District Judge, which has attained finality. They have claimed that they are the bonafide purchasers of the land, which they purchased after verifying the entries made in the revenue record. Defendant No.5, State of Haryana has filed a separate written statement, wherein a preliminary objection has been taken that suit is barred under Order 2 Rule 2 CPC. It has been stated that the suit land was declared surplus and vests in the Government of Haryana. The claim of the plaintiffs has been denied. It is also the stand of the State that the sale deed, if any, executed by the sons of Jassu Ram is not binding on the State Government. On the basis of the pleadings of the parties, trial Court framed issues. After the parties led evidence in support of their respective case and were heard, trial Court partly decreed the suit vide judgment dated 14.12.2015 and restrained the defendants from interfering in the possession of the plaintiffs except in due course of law. Plaintiffs remained unsuccessful in the first appeal, which was dismissed by the learned Additional District Judge, vide judgement dated 25.02.2022, resulting in the institution of the present



appeal.

4. I have heard counsel for the appellants and considered his submissions besides examining the requisitioned record.

5. Section 25 of the Act of 1953 bars the jurisdiction of civil court or any other court to entertain a suit to challenge the legality or validity of any order passed under the 1953 Act. Order passed by the Collector, Palwal, even, if it vests any right in the plaintiffs cannot be made basis for filing a civil suit. In case, the plaintiffs were entitled to purchase the surplus land in possession being tenants, they ought to have exercised their right under the 1953 Act and the civil suit is not maintainable. Judgment of the Full Bench in **State of Haryana and others versus Vinod Kumar and others, 1986 PLJ 161** relied upon by counsel for the appellant, is not applicable to the facts of the present case. The question for consideration before the Full Bench was that once an opportunity of hearing is not given to the landowners, whether a civil suit to challenge an order passed by authority under 1953 Act is maintainable. The facts of the present case are entirely different. It has neither been pleaded nor proved that opportunity of hearing was not given before passing of order dated 14.01.1973 by Collector, Palwal. Moreover, proceedings under the 1953 Act have attained finality.

6. Concededly, plaintiffs had filed a suit pertaining to the land in dispute, which culminated in the judgment dated 13.03.2009. Stand of the plaintiffs is that as the surplus proceedings were not to their knowledge, they could not plead them in the previous litigation. The

**RSA-1239-2022 (O&M)****-5-**

relief being sought by the plaintiffs in the present suit is barred under Order 2 Rule 2 CPC. Lack of knowledge of surplus proceedings is not a ground, which entitles the plaintiffs to file a fresh suit for relief which they could have claimed in the previous litigation. Moreover, plaintiffs have sought to challenge sale deed dated 16.08.1989 by filing the instant suit on 30.09.2009. Relief for declaration sought by the plaintiffs is clearly barred by limitation.

7. There is no illegality or infirmity in the judgments passed by the courts below, which are affirmed. Appeal being devoid of merits is dismissed with no order as to costs.

07.05.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No