



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA-1326-2000 (O&M)  
Reserved on: 04.04.2025  
Date of decision: 01.05.2025

STATE OF HARYANA & ANR.

..Appellants

Versus

BAGGA SINGH & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Vibha Tewari, AAG, Haryana.

Mr. Ashok Kumar Verma, Advocate  
Mr. Satwant Singh Sishodia, Advocate  
for respondent No.1 and 2.

**ANIL KSHETARPAL, J.**

**I. Brief facts & Introduction:**

1. The State of Haryana and others (defendants) assail the correctness of First Appellate Court's judgment, which in turn has reversed the judgment of the trial Court.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

3. Sh. Maghar Singh was a big landowner. He held ownership of land in excess of the ceiling limit prescribed under the Punjab Security of Land Tenures Act, 1953 (in short '1953 Act'). The Collector vide order dated 16.05.1961 declared 1.26 standard acre, which was equivalent to 4.03 ordinary acre as surplus in the hands of Sh. Maghar Singh. Vide order dated 16.05.1961, the Collector allowed Sh. Maghar Singh a permissible area of 96 ordinary acres, which was in violation of Section 2(3) of the '1953 Act'. Subsequently, on 25.05.1962, the Collector passed order under Rule 6(6) of



the Punjab Security of Land Tenures Rules, 1956, declaring 40.03 ordinary acres as surplus area after reserving 60 ordinary acres as permissible area for Sh. Maghar Singh. Before passing the order, the land owner was examined on 17.05.1962. The copy of the order passed on 25.05.1962 is exhibited as Ex.D-4 in the trial Court record.

4. Subsequently, on re-organization of the States in the year 1967, the said area fell in the State of Haryana. The State of Haryana enacted its own Act namely The Haryana Ceiling on Land Holdings Act, 1972 (in short '1972 Act') which provided for the appointed date was 24.01.1971. It was provided in the Act that on the appointed day, the land which was declared surplus under the previous Act i.e. '1953 Act' would vest in the State. The State of Haryana also notified the Haryana Utilisation of Surplus and other Areas Scheme, 1976. Pursuant thereto, the State of Haryana allotted the surplus area to various individuals vide orders dated 25.02.1981, 24.10.1983 and 15.02.1985. The plaintiffs namely children of Sh. Maghar Singh filed the suit with the following reliefs:-

*“Suit for declaration to the effect that the order or the proceedings, if any, initiated by the defendant no.2 declaring land measuring 320 Kanals 0 marla, comprised in Sq. No.303 Killa No.1/1 (0-6) Sq. No.304 Killa No.1(7-4), 2(7-11) 3 to 5(24-0) 6(8-11) 7(7-11) 8(7-11) Sq. No. 27 Killa NO.11 (4-14) 12(8-0) Sq. Nos. 209 Killa No.23/2(4-5), 22/2(1-6). 10/2(5-1) 11(7-12) 20(7-19), 22/1(6-5), Sq. No. 24 Killa No.1 (8-0) 218-12) 9/214-2) 10/1(6-13), Sq. No. 306 Killa No.9/2, (1-12) 10/2(6-19) 11(7-12), 12-13 (16-0) 18-19 (16-0) 20(7-12), Sq. No.61 Killa No. 3(8-0) 4/1(1-12) 4/2(6-0) 4/3 (6-0) 6 to 8 (24-0) 13 to 18 (48-0) 24/1(4-13) 25/1(4-13), Sq. No. 62 Killa No.10 (8-0) 11(8-18) 20(6-0) 21/1(2-4), situated at Village Bori, Tehsil and Distt. Sirsa, as surplus in the hands of the plaintiffs and the proforma-defendants, under the provisions of the Haryana Ceiling on Land Holdings Act, 1972 and the orders dated 25.2.1981, 28.10.1983 and 15.2.1985 passed by the S.D.O. (Civil) with powers of Prescribed Authority cum Allotment Authority, Sirsa, Collector, Sirsa, and the Commissioner,*



*Hisar Division, Hisar, respectively and also the order of the Hon'ble Financial Commissioner, Haryana, Chandigarh, passed in R.O.R No.192 of 1985 instituted by Surjit Singh etc. the plaintiffs and the proforma-defendants, against the aforesaid three orders, are wrong and illegal, null and void, against law and against facts, without authority and without jurisdiction non-est, against the principles of nature justice and equity, against the mandatory provisions of law, as contained in the Haryana Ceiling on Land Holdings Act, and the Haryana Utilisation of surplus and other Area Scheme, 1976 and hence liable to be set aside, and the are not binding on the rights of the plaintiffs and the proforma-defendants, and as a consequential relief of permanent injunction, restraining the defendants from ousting/dispossessing the plaintiffs and the proforma-defendants from the aforesaid land, from further implementing the executing the aforesaid orders on the spot, against the plaintiffs and the proforma-defendants, on the basis of evidence of all kinds, oral and documentary.”*

5. The State of Haryana contested the suit but the remaining defendants did not appear. The trial Court dismissed the suit, which in appeal has been reversed by the First Appellate Court.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

## **II. Arguments put forth by rival parties:-**

7. Learned counsel appearing on behalf of the State of Haryana has submitted that the plaintiffs failed to lead evidence to the effect that Sh. Maghar Singh died before 24.01.1971. She submits that on appointed day, the land vested in the State, free from any encumbrances as per Section 12(3) of the '1972 Act'. She further submits that the First Appellate Court has erred in observing that the order dated 25.05.1962 was passed without granting opportunity of hearing to the big land owner namely Sh. Maghar Singh and the same was illegal because prior permission of the Commissioner was not sought. She submits that the Collector had only



corrected the error because the Collector in the previous order had permitted Sh. Maghar Singh to retain 96 ordinary acres as per the permissible area, which should have been 60 ordinary acres.

8. Per contra, learned counsel for respondent No.1 and 2 submits that plaintiffs while appearing in evidence have stated that Sh. Maghar Singh died before 24.01.1971, which was not challenged in the cross-examination. He further submits that defendants have not produced any evidence to prove that the order dated 25.05.1962 was passed after hearing Sh. Maghar Singh or prior permission was taken before reviewing the order.

### III. Discussion & Analysis:-

9. This Court has considered the submissions of learned counsel for the parties and analyzed the arguments of learned counsel for the parties.

10. It is the plaintiffs, who came to the Court seeking grant of decree of declaration. They were required to prove that Sh. Maghar Singh died before 24.01.1971. Except oral statement, the plaintiffs did not lead any other evidence.

11. On the other hand, the State of Haryana produced copy of mutation of Sh. Maghar Singh (Ex.D-3), which proves that the mutation on the death of Sh. Maghar Singh was sanctioned in the year 1976. In the remarks column, it was recorded that Sh. Maghar Singh died two years back, which means that Sh. Maghar Singh died somewhere in the year 1974. The copy of mutation is a part of official record. It was for the plaintiffs to rebut the same. Moreover, it was the plaintiffs, who had asserted that Sh. Maghar Singh died before 24.01.1971, however, they failed to produce any documentary evidence in support thereof, hence, the First Appellate Court has erred.

12. The order Ex.D-4 dated 25.05.1962 is part of the record and it is



specifically recorded in the order that land owner was examined on 17.05.1962. The order passed by the competent authority is presumed to be correct unless rebutted. It was for the plaintiff to rebut the same.

13. The order Ex.D-4 passed by the Collector on 25.05.1962 was passed by the same officer who had passed the previous order on 16.05.1961. Section 82 of the Punjab Tenancy Act, 1887, which is applicable to the proceedings under the Punjab Security of Land Tenures Act, 1953, (in short '1953 Act') is extracted as under:-

***“82. Review by Revenue-officers—***

*(1) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office :*

*Provided as follows: —*

*(a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;*

*(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;*

*(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected there by to appear and be heard in support of the order;*

*(d) an order against which an appeal has been preferred shall not be reviewed.*

*(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer and to whom there is no successor in office.*

*(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.”*



14. Proviso (1) of Section 82(1) of '1953 Act' provide that if a Commissioner or Collector is to review any order, which was not passed by him or the order was passed by a Revenue Officer of a class below that of Collector then prior permission of the Revenue Officer in whose control he is immediately subject is required. In this case, Proviso (1) of Section 82(1) of '1953 Act' shall not be applicable because first of all the order was passed by the same Collector. Secondly, he was not a Revenue Officer of a class below that of Collector. It is evident that he passed the order as Collector, Surplus Area, Sirsa. Moreover, he only corrected an inadvertent error. As per Section 2(3) of '1953 Act' the permissible area available to the landowner or a tenant means 30 standard acres. In any case, it shall not exceed 60 ordinary acres. However, the Collector in the year 1961 allowed the landowner 90 ordinary acres as his permissible area. Hence, the Collector corrected the error.

15. As per the provisions of Section 12(3) of Haryana Ceiling on Land Holding Act, 1972 (in short '1972 Act'), on the appointed day, the land declared surplus 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. Section 12(3) of the '1972 Act' is extracted as under:-

***"12. Vesting of surplus area –***

*(1) xx xx xx*

*(2) xx xx xx*

*(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.*

*(4) xx xx xx"*



16. As per Section 3(c) of '1972 Act', the appointed day means the 24<sup>th</sup> day of January, 1971.

17. Thus, the surplus land vested in the State of Haryana on 24<sup>th</sup> day of January, 1971.

18. The First Appellate Court has also erred in observing that the prescribed authority failed to pass order declaring surplus after the death of Sh. Magar Singh. The word 'prescribed authority' is defined in Section 3(o) of '1972 Act'. Once the land under Section 12(3) of '1972 Act' vested in the State on 24<sup>th</sup> day of January, 1971, the prescribed authority was not required to pass any order after the death of Sh. Magar Singh, particularly when he died after 24<sup>th</sup> January, 1971.

19. Similarly, the concept requiring allottees to obtain a certificate of allotment and then to take possession and execute '*Kabuliyat*' or '*Pattanama*' in order to complete divesting the ownership from the big landowners is under the '1953 Act' and not under '1972 Act'. After reorganization of States, State of Haryana enacted '1972 Act', hence, the land declared surplus under the Punjab Law vested in the State on the appointed day. Thereafter, the provisions of '1953 Act' and the Rules framed thereunder shall not be applicable.

20. The First Appellate Court has also erred in observing that the State has failed to produce that the plaintiffs were served with a notice Ex.P-2. Mere oral denial of the plaintiff was not sufficient, particularly when the State produced notice dated 22.02.1981, wherein, plaintiff had appended his thumb impression. It was for the plaintiff to prove that their father never appended his thumb impression. The First Appellate Court wrongly shifted the onus upon the State.

21. Moreover, the Appellate Court has overlooked that the plaintiff



filed a suit on 02.01.1989, whereas, the land vested in the State on 24.01.1971, hence, the suit filed by the plaintiff was beyond the period of limitation.

**IV. Relief:-**

22. In view of the foregoing discussion, the regular second appeal is allowed. The judgment passed by the First Appellate Court is not sustainable, hence, set aside and that of the trial Court is restored.

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

**01<sup>st</sup> May, 2025**

*Ayub*

**(ANIL KSHETARPAL)  
JUDGE**

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No