



2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 27.04.2016 whereby Board of Financial Commissioners, Haryana has allowed revision petition of the private respondents and rejected their claim of rent.

3. The petitioners were owner of land situated in Village Sikanderpur, District Sirsa. Collector, Sirsa, in terms of Punjab Securities of Land Tenures Act, 1953 (for short '**1953 Act**') declared part of their land as surplus vide order dated 05.10.1962. The private respondents being ejected tenants were settled on the surplus land vide Rapat No.329 dated 25.05.1968. The petitioners preferred writ petition before this Court assailing vires of Haryana Ceiling on Land Holdings Act, 1972 (for short '**1972 Act**'). The said petition was dismissed on 25.10.1979. The petitioners preferred Special Leave Petition before the Hon'ble Supreme Court wherein notice was issued and conditional stay was granted. The respondent-State on 09.01.1980 allotted surplus land to private respondents though Hon'ble Supreme Court on 08.01.1980 granted stay to the petitioners. On account of stay granted by Supreme Court, the competent authority revoked order of allotment dated 09.01.1980. The Apex Court vide order dated 27.01.1999 dismissed Special Leave Petition and vide order dated 24.08.1999 dismissed review petition. The petitioners filed eviction application against private respondents on account of non-payment of rent. The said application was dismissed by Assistant Collector, 1st Grade, Sirsa vide order dated 31.07.2007. The petitioners preferred appeal before Collector, Sirsa which came to be dismissed vide order dated 18.12.2007. They preferred revision

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which was allowed by way of remand vide order dated 28.01.2009 passed by Commissioner, Hisar.

In the second round, Assistant Collector, 1st Grade, Sirsa vide order dated 15.02.2011 allowed application seeking ejectment. The private respondent preferred an appeal before Collector, Sirsa which came to be dismissed vide order dated 15.02.2012. They preferred revision petition under Section 18(6) of 1972 Act. A Board of Financial Commissioners, Haryana vide order dated 27.04.2016 allowed revision petition and held that surplus land vested in the State Government w.e.f. 24.01.1971. There was no question of payment of rent and allotment letter was wrongly revoked by lower authority. The operative portion of order dated 27.04.2016 reads as:-

“We have duly considered the arguments advanced by all the counsels and have perused the impugned order and the relevant record of the case. The land of big land owner was declared surplus under the Punjab Act and the same vested in State w.e.f. 24.01.1971, under section 12 (3) of the Haryana Act. The land declared surplus was accordingly allotted to the petitioners under the Utilization Scheme. The land owner challenged the vires of the Haryana Ceiling On Land Holdings Act, 1972, before the Hon'ble Apex Court and obtained stay order. The allotment authority wrongly revoked the allotment of the petitioners in view of the stay order passed by the Hon'ble Apex Court.

The material question for adjudication by this court is as to whether there is relationship of landlord and tenant between the petitioners and the respondents and as to whether the landlord are entitled for rent from the petitioners. Since, the surplus land vested in State of Haryana w.e.f. 24.01.1971, the landlord lost all his rights in the surplus land. After vesting of the land in the State the relationship of landlord and tenant automatically ends. The respondents are not entitled to



any rent from the tenants/allottees as the surplus land has vested in the State of Haryana. The AC 1st Grade, Sirsa, while passing the impugned order has wrongly held that the respondents entitled to rent from the petitioners ignoring the basic fact that the respondents are no more the owners of the surplus land. As such the order of AC 1st Grade, Sirsa dated 15.02.2011 and 01.03.2011 are not legally sustainable. Since, the order of revocation of allotment dated 14.03.1980 passed by the allotment authority is also not legally sustainable and the same is required to be restored.

Keeping in view the above discussion we allow all the revision petitions and set aside the impugned orders dated 15.02.2011 and 01.03.2011 passed by AC 1st Grade, Sirsa, and restored the order of allotment dated 09.01.1980 passed by Allotment Authority Sirsa. Tehsildar Sirsa is directed to get the necessary entry/corrections in the revenue record accordingly.”

4. Learned counsel for the petitioners assailing order dated 27.04.2016 submits that as per Section 10-A of 1953 Act particularly its explanation, the petitioners are entitled to rent from private respondents. The competent authority allotted land in question to private respondents vide order dated 09.01.1980 and said order was revoked vide order dated 14.03.1980. The respondent preferred an appeal against order of revocation which was dismissed vide order dated 30.08.2005. The respondents preferred *CWP No.1721 of 2008* before this Court assailing order of revocation. The said petition was dismissed vide order dated 20.08.2009. In view of orders passed by higher authorities including this Court, order of allotment dated 09.01.1980 ceased to exist and private respondents no more remained allottees.

5. On being confronted with Section 12 of 1972 Act, learned counsel for the petitioners submitted that land vested in the State

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Government from the date of insertion of Sub-Section (3) in Section 12. Prior to insertion of Sub-Section (3) in Section 12, Section 10-A of 1953 Act remained applicable. The respondent, in any case, was liable to pay rent from the date of possession till the date of deemed vesting of land in the State Government. The petitioners were not paid compensation as per provisions of 1953 Act, thus, they are eligible for rent from private respondents. The private respondents are neither paying rent to State Government nor to the petitioners. The State Government has not further paid compensation to the petitioners as per provisions of 1972 Act.

6. *Per contra*, learned counsel for the private respondents submits that land was allotted to private respondents as per provisions of 1972 Act as well as 1953 Act. The allotment authority had no right to revoke allotment letter. The Board of Financial Commissioners, Haryana, in exercise of powers conferred by Section 18(6) of 1972 Act, has rightly set aside revocation order dated 14.03.1980. In view of Section 12(3) of 1972 Act, the area declared surplus became property of State Government w.e.f. 24.01.1971 i.e. appointed date. As per Section 12(1) of 1972 Act, all rights, title and interest of the owners of the land stood extinguished w.e.f. 24.01.1971. The petitioners no more remained owners of the land as soon as Government became owner w.e.f. 24.01.1971.

7. Learned State counsel submits that there is no infirmity in the impugned order of Board of Financial Commissioner, Haryana. As per Section 18(6) of 1972 Act, they were competent to call record of authority below and set aside order dated 14.03.1980 passed by allotment authority. As per provisions of the Act, the allotment authority had no right to revoke allotment letter dated 14.03.1980.

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8. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

9. From the perusal of record, it is evident that the petitioners are claiming rent with respect to land declared surplus. They are not disputing that they assailed orders declaring their land surplus before all possible Judicial Forums including Hon'ble Supreme Court. They lost their claim, thus, question of declaring their land surplus has attained finality. They are now claiming rent on the ground that as per explanation to Section 10-A of 1953 Act utilization of surplus land does not affect right of landowner to receive rent from the tenant. As per Section 10-A(1) of 1953 Act, State Government is competent to utilize any surplus area for the resettlement of tenants ejected or to be ejected. Section 10-A of 1953 Act reads as:-

“10-A. Surplus area for resettlement of ejectedly tenants.-

- (a) The State Government, or any officer empowered by it in this behalf, shall be competent to utilize any surplus area for the resettlement of tenants ejected, or to be ejected, under clause (i) of sub section (1) of section 9.*
- (b) Notwithstanding anything contained in any other law for the time being in force and save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance no transfer or other disposition of land which is comprised in a surplus area at the commencement of this Act, shall affect the utilization thereof in clause (a).*

Explanation – Such utilization of any surplus area will not affect the right of the land-owner to receive rent from the tenant so settled.



- (c) *For the purposes of determining the surplus area of any person under this section, any judgement decree, or order of a court or other authority, obtained after the commencement of this Act and having the effect of diminishing the area of such person which could have been declared as his surplus area shall be ignored.”*

10. A reading of aforesaid Section reveals that State Government has power to utilize surplus area for the resettlement of tenants ejected or to be ejected. The respondents were tenants of surplus land in question. They were settled on the said land. They were issued allotment letter on 09.01.1980. The allotment letter was cancelled because there was stay order dated 08.01.1980 granted by Hon’ble Supreme Court in favour of the petitioners. The order revoking allotment letter was unsuccessfully challenged. Before the Board of Financial Commissioners, Haryana, order revoking allotment was not under challenge, however, Board exercising power under Section 18(6) of 1972 Act set aside revocation order dated 14.03.1980. As per State, the allotment authority had no authority to revoke allotment letter, thus, revocation order has been rightly set aside.

11. The petitioners are claiming rent. As per them, the private respondents are liable to pay rent. Their claim is based upon explanation of Section 10-A of 1953 Act. As per said Section, they are certainly entitled to rent, however, the matter needs to be examined in the light of Section 12 of 1972 Act. It is apt to notice that 1972 Act was introduced w.e.f. 24.01.1971 and it was introduced to give effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India.

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12. Section 12 of 1972 Act provides that surplus area of landowner shall be deemed to be acquired by the State Government from the date on which it is declared surplus. All rights, title and interest of the owners shall stand extinguished and such rights, title and interest shall vest in the State Government free from all encumbrances. Sub-Section (3) was inserted in Section 12 by Amendment Act No.40 of 1976. As per Sub-Section (3), area declared surplus shall be deemed to have vested in the State Government w.e.f. the appointed date. Section 12 of 1972 Act reads as:-

“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 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 the 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) For the purposes 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 having the effect of diminishing the surplus area shall be ignored.”

13. From the perusal of above quoted Section, it is evident beyond the pale of doubt that w.e.f. appointed day i.e. 24.01.1971, land of the petitioners vested in State Government and it became entitled to all rights, title and interest. Title, interest and rights of the petitioners stood extinguished on 24.01.1971. There was no question of payment of rent to the petitioners after 24.01.1971. The petitioners have wrongly placed reliance upon Section 10 of 1953 Act. Section 33 of 1972 Act provides that the provisions of 1953 Act which are inconsistent with the 1972 Act shall stand repealed. As per Section 12 of 1972 Act, from the appointed day surplus land stood vested in State Government w.e.f. 24.01.1971. There was no question of payment of rent to the petitioners. Explanation of Section 10 of 1953 Act becomes inconsistent with Section 12 of 1972 Act, thus, it stood repealed from the date of introduction of 1972 Act. Section 33 of 1972 Act reads as:-

“33. Repeal and savings. -(1) The provisions of the Punjab Security of Land Tenures Act, 1953, and the Pepsu Tenancy and Agricultural Lands Act, 1955, which are inconsistent with the provisions of this Act are hereby repealed.

(2) The repeal of the provisions of the enactments mentioned in subsection (1), hereinafter to as the said enactments, shall not affect-

(i) the applications for the purchase of land under Section 18 of the Punjab Law or Section 22 of



the Pepsu Law, as the case may be pending immediately before the commencement of this Act, which shall be disposed of as if this Act had not been passed;

- (ii) the proceedings for the determination of the surplus area pending immediately before the commencement of this Act, under the provisions of either of the said enactments, which shall be continued and disposed of as if this Act had not been passed, and the surplus area so determined shall vest in, and be utilised by the State Government in accordance with the provisions of this Act.*
- (iii) the revisional power of the Financial Commissioner under section 24 of the Punjab law or under sub-section (3) of Section 39 of the Pepsu Law, as the case may be, shall be exercised as if this Act had not been passed; and the area declared surplus in exercise of such revisional power shall vest in, and be utilised by, the State Government in accordance with the provisions of this Act:*
- (iv) the power exercisable under section 5-C of the Punjab law or under section 32-88 of the Pepsu law, as the case may be, shall be exercised as if this Act had not been passed; and the area determined surplus in exercise of such power shall vest in, and be utilised by, the State Government in accordance with the provisions of this Act; Provided that the powers of the Pepsu Land Commission under the Pepsu law shall vest in, and be exercised by, the Collector of the district concerned.*

(3) Save as provided in sub-section (2), no authority shall pass an order if any proceedings whether instituted before or after the commencement of this Act which is inconsistent with the provisions of this Act.”

[Emphasis Supplied]

14. The private respondents were permitted to utilize surplus land from 1968. They are claiming that they have regularly paid rent to State Government. In any case, after 1971, they were not liable to pay rent to the petitioners.

15. In wake of above discussion and findings, this Court is of the considered opinion that present petitions deserve to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

20.11.2025
Mohit Kumar

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