

2026.PHHC.063502



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

CWP-3428-1997 (O&M)

Date of Decision: 13.01.2026

Surja Ram (Deceased) Through LRs. and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. R.S. Kundu, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari for setting aside order dated 07.09.1988 (Annexure P-1) passed by the learned Special Collector, Haryana (exercising the powers of prescribed authority under the Haryana Ceiling on Land Holdings Act, 1972); as well as the order dated 03.01.1997 (Annexure P-10) passed by the learned Financial Commissioner, Haryana.

1.1 A further prayer has been made for issuance of appropriate directions to the Special Collector, Haryana (exercising the powers of prescribed authority under the Haryana Ceiling on Land Holdings Act, 1972), to re-determine the permissible area as well as the surplus area of respondents No.3 to 5 by placing the land measuring 89 Kanals-17 Marlas

bearing Killa Nos.177//10, 11, 12, 13, 19, 22, 18, 21 min, 20, 23 and Killa Nos.14//2/2 and 3, which was *bona fidely* purchased by the petitioners from respondent No.4 with the consent of respondents No.3 and 5, for valuable consideration; in the 'permissible area' of respondents No.3 to 5, by taking this area out of the surplus pool, and further to take that much area from the 'permissible area' of the respondents No.3 to 5 and include the same in the 'surplus pool'.

2. Briefly, respondent No.3 – Divakar Singh and respondent No.4 – Virender Singh are the sons of respondent No.5 – Jagjeet Singh @ Jangjeet Singh.

2.1 It appears that respondent No.5 along with his sons, i.e. respondents No.3 and 4; were big land owners. The State of Haryana initiated proceedings against them for determination of their surplus area in Village Bajekan, Tehsil and District Sirsa, under Section 11 of the Haryana Ceiling on Land Holdings Act, 1972 (in short 'the 1972 Act'). The then Special Collector, Haryana (while exercising his powers under the 1972 Act), vide order dated 11.07.1986, declared 1523 Kanal-1 Marla of 'C' category land as surplus in the hands of respondents No.3 to 5.

2.2 Being aggrieved, respondent No.5 challenged the aforesaid order dated 11.07.1986 by filing an appeal before the learned Divisional Commissioner, Hisar, which came to be allowed vide order dated 17.09.1987, whereby the matter was remanded to the learned Special Collector, for re-deciding the case.

2.3 Upon remand, the learned Special Collector, vide order dated 30.06.1988, again adjudicated the surplus area case of respondents No.3

to 5. It transpires that since respondent No.5 failed to furnish the requisite particulars of the land which he intended to surrender towards the surplus pool, the learned Special Collector, vide order dated 18.07.1988, proceeded to declare the 'surplus area' as well as the 'permissible area' of the big landowners at his own level in terms of Section 10 of the 1972 Act.

2.4 Subsequently, respondent No.5 moved an application before the learned Special Collector seeking recall of the aforesaid order dated 18.07.1988, which was allowed vide order dated 07.09.1988 (Annexure P-1), with a direction to respondent No.5 to furnish the details of the land proposed to be surrendered in the 'surplus pool'.

2.5 It is the case of the petitioners that no mutation with respect to the surplus area of respondents No.3 to 5 had been entered or reflected in the revenue records in favour of the State Government till 06.01.1990. It is averred that after undertaking necessary verification of the revenue records and making inquiries from the concerned revenue officials, and also on the basis of assurances given by respondent No.4 that he was the owner of the land measuring 137 Kanal-17 Marla (free from all encumbrances) and competent to transfer the same, with no legal prohibition attached thereto; the petitioners, acting *bona fide* and for valuable consideration of Rs.1,87,000/-, purchased the aforesaid land measuring 137 Kanal-17 Marla vide registered Sale Deed dated 18.07.1989 (Annexure P-3). Upon execution of the said Sale Deed, Mutation No.2673 dated 03.08.1989 was sanctioned in favour of the petitioners.

2.6 According to the petitioners, on 06.01.1990, Mutation No.2703 came to be entered by the *Halqa Patwari* in favour of the State of Haryana

in respect of 89 Kanal-19 Marla (out of the total land measuring 137 Kanal-17 Marla purchased by the petitioners from respondent No.4), on the premise that the said land had been declared surplus vide order dated 07.09.1988 (Annexure P-1).

2.7 It transpires that upon learning about the aforesaid Mutation No.2703, whereby land measuring 89 Kanal-19 Marla was included in the surplus pool, the petitioners preferred an appeal before the learned Divisional Commissioner, Hisar. The said appeal was allowed vide order dated 25.07.1992 (Annexure P-7), whereby the order dated 07.09.1988 (Annexure P-1) passed by the learned Special Collector was set aside and the matter was remanded for fresh determination. The learned Divisional Commissioner further directed that the permissible area as well as surplus area of respondents No.3 to 5 be re-determined by including the land purchased by the petitioners within the permissible area of big land owners and by correspondingly including an equivalent area in the surplus pool.

2.8 Being aggrieved, respondents No.3 to 5 filed a revision petition (ROR No.12 of 1992-93) before the learned Financial Commissioner, Haryana, which was allowed vide order dated 03.01.1997 (Annexure P-10), whereby the order dated 25.07.1992 (Annexure P-7) passed by the learned Divisional Commissioner, Hisar, was set aside.

3. In the aforementioned circumstances, petitioners have filed the instant writ petition before this Court for seeking relief(s), as noticed hereinabove.

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

5. The aforesaid facts are not in dispute before this Court.

6. Concededly, the surplus area with respect to the land holdings of respondents No.3 to 5 was determined by the learned Special Collector vide order dated 30.06.1988. Thereafter, the selection of the permissible area by respondent No.5, as well as the land to be placed in the surplus pool, was finalized by the learned Special Collector vide order dated 07.09.1988 (Annexure P-1).

7. It is evident that respondent No.4 sold land measuring 137 Kanal-17 Marla to the petitioners vide registered Sale Deed dated 18.07.1989 (Annexure P-3), which included 89 Kanal-19 Marla already declared as 'surplus' by respondent No.5. Being a big landowner, respondent No.5 was fully aware of the land which he had selected for the surplus pool; even then, the said land was sold to the petitioners.

8. Be that as it may, the petitioners challenged the order dated 07.09.1988 (Annexure P-1), whereby respondents No.3 to 5 had selected their permissible area and further identified the land to be placed in the surplus pool; by filing an appeal before the learned Divisional Commissioner, Hisar. The said appeal was allowed vide order dated 25.07.1992 (Annexure P-7), and the matter was remanded to the learned Special Collector for fresh determination.

9. However, on a revision petition preferred by respondents No.3 to 5, the learned Financial Commissioner, Haryana, vide order (Annexure P-11), set aside the order passed by the learned Divisional Commissioner (Annexure P-7), while observing as under:-

"I have studied the case file and have considered the

arguments advanced by the learned counsel for the concerned parties. The surplus area case of Jangjit Singh son of Madho Singh landowner, Petitioner No.3 was decided by the Special Collector, Haryana, exercising the powers of the Prescribed Authority under the Haryana Ceiling on Land Holdings Act, 1972, vide his order dated 7.9.1988 and amended form IV containing the details of the area reserved by the declarant and killa No. surrendered in the surplus pool was annexed with his order. Respondents No.2 to 4 filed an appeal before the Commissioner, Hisar Division, Hisar on 25.6.1990 stating that when they purchased this land, the landowner had assure them that it was not a part of the surplus pool. However, they learnt from order dated 7.9.7988 passed by the Special Collector, Hisar that 89 Kanal and 19 Marlas of land purchased by them was indeed part of the surplus pool and therefore, the impugned order of the Special Collector should be set aside and this area forming part of the bonafide sale should be included in the permissible area of the landowner. As stated earlier, the Commissioner, Hisar Division accepted the appeal vide his order dated 25.7.1992, set aside the order of the Special Collector and remanded the case to the Special Collector with the direction that the permissible area and surplus area of the landowner be redetermined and the land purchased by the appellant be placed in the permissible area of the landowner by taking this area out of the surplus pool. This order has been challenged before me in the present revision petition.

6. While accepting the appeal filed by the respondents, the Commissioner has observed that under the provisions of Section 11(3) of the Haryana Ceiling on Land Holdings Act, 1972, a copy of the statement is required to be sent to the persons concerned and the appellant-vendees were the affected persons. This conclusion of the learned Commissioner is

obviously incorrect. The Special Collector passed his order on 30.6.1988. The respondents No.2 to 4 who were appellants before the Commissioner, were not concerned with this land at all at that time because they purchased the land almost 10 months later after the decision of the surplus area case by the Prescribed Authority. When the transferees had purchased the land on 18.7.1989, they could not take the plea that the Prescribed Authority should have called them also by sending them the notice under Section 11(3) before deciding the case on 30.6.1988. Now the main question before me is whether once the surplus area case of a landowner is decided by the Prescribed Authority and some transferees purchased the area included in the surplus pool, should the surplus area by case of the landowner be reopened and area purchased by the vendees be included in the landowners permissible area. The learned counsel for the respondents emphasized that the surplus area case has to be reopened and the surplus area purchased by any person has to be included in the permissible area of the landowner. In this context, he has relied on ruling 1995-PLJ-276. I have studied this ruling which is not relevant in this case because in that case the area purchased by the transferees was a part of the permissible area of the landowner and after consolidation of holdings, the landowner wanted fresh selection of his permissible area which was not permitted by the Financial Commissioner, Punjab under the Punjab Land Reforms Act. On the other hand, the learned counsel for the petitioners has argued that the Commissioner could not have accepted the appeal because it was badly time-barred and the question of issuing notice to the respondents by the Prescribed Authority did not arise because they had purchased the land in question at a much later date. He cited 1996-PLJ-514 in which the Division Bench of the Hon'ble Punjab & Haryana High Court has held that law treats all transfers of land effected

after 2.4.1973 as void and court can not infuse any life into such dead transactions and that vendee has not locus standi to claim that land purchased should be treated as landowner's permissible area. He also cited 1987-PLJ-65, Roopa versus State of Haryana where it has been held that Section 8(1) of the Haryana Ceiling on Land Holdings Act, 1972 covers only transfers between 24.1.1971 and 23.1.1972 and concession was not available in respect of transfers made after 23.12.1972. In this case it has been specifically held that provisions of Section 8 and 9 safeguard the interest of the State to surplus area and do not provide any protection to transferees who purchased land from the big land-owners after enactment of Act i.e. 23.12.1972. It has also been held that in case transferee is aggrieved by the fact that landowner, after transferring the land to him, has given it in surplus pool which has resulted in some loss to him, only remedy open to him was to approach the Civil Court for claiming damages for breach of promise etc. or can take recourse to provision of Proviso to Section 8(1) to get compensation. The transferee can not challenge the right of landowner to give land transferred in surplus pool even if the landowner had promised that the land transferred will not be given in surplus pool. In this case the landowner had already given the land in question in the surplus pool. The Division Bench of this Hon'ble Punjab & Haryana High Court has held in 1996-PLJ-514 that vendee has no locus standi to claim that land purchased should be treated as landowner's permissible area, because all transfers of land effected after 2.4.1973 were void according to law and the court can not infuse any life into such dead transactions. The Hon'ble Court has also observed that the vendees may have suffered because of the mechanism applied by the landowner but they are to blame themselves for the situation and the law has treated all the transfers after a given date as

void. The court can not infuse any life into such dead transactions. Thus, the revision petition is accepted and the order dated 25.7.1992 passed by the Commissioner, Hisar Division is set aside.”

10. Having gone through and considering the findings recorded by the learned Financial Commissioner, I am of the view that in the attending facts and circumstances, no fault can be found therein.

11. Evidently, the surplus area in the hands of respondents No.3 to 5 stood determined as far back as on 30.06.1988, whereas the petitioners purchased the land subsequently vide Sale Deed dated 18.07.1989 (Annexure P-3). Thus, on the date when the surplus area was declared, the petitioners were not in the picture. The learned Divisional Commissioner, Hisar, had allowed the appeal filed by the petitioners primarily on the ground that no notice had been issued to them prior to the order dated 30.06.1988; however, in the given circumstances, such a finding was clearly untenable.

12. Moreover, since the sale in favour of the petitioners was effected after the appointed date under the 1972 Act, and that too in respect of the area which was already declared surplus; the same is not protected under the provisions of the 1972 Act.

13. In the attending circumstances, the grievance, if any, of the petitioners, would lie only against their vendor, i.e. respondent No.4.

14. Keeping in view the above, this Court finds that the learned Financial Commissioner, Haryana, has rightly appreciated the facts and law while passing the well reasoned order dated 03.01.1997 (Annexure P-10), which does not warrant any interference by this Court in the present

writ proceedings.

15. Resultantly, the present writ petition fails and the same is, accordingly, dismissed.

16. All pending application(s), if any, shall also stand closed.

13.01.2026
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No