



RSA No.1369 of 1989 (O&M) and other connected cases

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101

1.

RSA No.1369 of 1989 (O&M)
Date of decision: **January 19th, 2026**

Balbir Singh and others

.....Appellants
- Versus
- State of Haryana and others

.....Respondents
2.

RSA No.1370 of 1989

Balbir Singh

.....Appellant
- Versus
- State of Haryana and others

.....Respondents
3.

RSA No.1371 of 1989

Balbir Singh and others

.....Appellants
- Versus
- State of Haryana and others

.....Respondents
4.

RSA No.947 of 1989

Balbir Singh and others

.....Appellants
- Versus
- State of Haryana and others

.....Respondents
5.

COCP No.427 of 1996

Balbir Singh

.....Petitioner
- Versus
- Mahesh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL



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Present: Mr. Adarsh Jain, Senior Advocate
 with Ms. Amandeep Kaur, Advocate
 for the appellants.

 Mr. Raj Pratap Singh Brar, Assistant Advocate General,
 Haryana.

VIKAS BAHL, J. (ORAL)

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BRIEF BACKGROUND OF THE CASE:

1. The present order would dispose of four Regular Second Appeals and one contempt petition. RSA Nos.1369, 1370 and 1371 of 1989 arise from a common judgment of the trial Court dated 06.02.1986, vide which three civil suits i.e. Civil Suit No.664 of 1981, Civil Suit No.388 of 1983 and Civil Suit No.870 of 1985 were decreed. It would be further relevant to note that evidence was recorded only in Civil Suit No.664 of 1981 and the same was to be read as evidence in all the three suits. Against said common judgment dated 06.12.1986, six civil appeals filed by various private defendants as well as by the State were decided vide common judgment dated 27.03.1989. In the present three Regular Second Appeals, it is the said common judgment dated 27.03.1989 passed by the First Appellate Court which is under challenge, as it is the First Appellate Court which had set aside the common judgment dated 06.02.1986 of the trial Court, to the extent that the appeals of the private defendants who had not compromised



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with the plaintiffs, was accepted and the suits of the plaintiffs/present appellants had been dismissed to the said extent. The plaintiffs in Civil Suit No.664 of 1981 as well as Civil Suit No.870 of 1985 are five in number and are the same and are the son, widow and daughters of Sadhu Ram, the original big landowner. In Civil Suit No.388 of 1983, the plaintiff is Balbir Singh, son of Sadhu Ram, the original big landowner.

2. In RSA No.947 of 1989, challenge is to the judgment and decree dated 22.08.1988 vide which the First Appellate Court had set aside the judgment and decree dated 22.12.1986 passed by the trial Court and had dismissed the suit of the plaintiff to the extent the same had not been compromised with the defendants. Civil Suit No.359 of 1982 out of which the said Regular Second Appeal arises had been filed by Khazani Devi, widow of Sadhu Ram (original big landowner) and after her death, had been pursued by her LRs.

3. In all the appeals and all the suits filed by the successors-in-interest of Sadhu Ram, original landowner, the prayer for declaration with possession has been made and challenge is made to the grant of proprietary rights to the various set of defendants, who were initially allotted the land on 09.12.1963 and were also subsequently given proprietary rights after the coming into force of the Haryana Ceiling on Land Holdings Act, 1972 (hereinafter referred to as the Ceiling Act, 1972). The issues which arise for consideration in all the said cases are common and thus, all the said cases are being decided by the present common judgment.

**ARGUMENTS ON BEHALF OF THE APPELLANTS:**

4. Learned senior counsel for the appellants has submitted that Sadhu Ram, predecessor-in-interest of the appellants, was a big landowner having 79 standard acres 9 units of agricultural land. It is submitted that the Collector, Karnal in the proceedings initiated under the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the Security Act, 1953) vide order dated 25.05.1960 declared land measuring 49 standard acres and 9 units as surplus and thereafter on an appeal preferred by said Sadhu Ram before the Commissioner, Ambala Division, vide order dated 07.09.1961, the Commissioner partly allowed the said appeal and remanded the matter. It is further fairly submitted that vide order dated 28.09.1962, the Collector declared same area as surplus and on 09.12.1963, allotments, some of which were exhibited as Exhibits P-18 to P-20, were made in favour of the defendants, who were ejected tenants for their re-settlement.

5. It is further argued that a writ petition was filed by Sadhu Ram, which was allowed on 21.04.1965 and he was given an opportunity to select his permissible area and he was also given the benefit of excluding *banjar* land while determining the surplus area and in pursuance of the said order, an application was made on 29.05.1965 to implement the order of the High Court and thereafter, on 10.09.1965, the Collector passed the order in pursuance of the directions given by the Hon'ble High Court and the benefit of excluding *banjar* land 3 standard acres 14½ units was given and the surplus area was reduced to 45 standard acres 10½ units. It is submitted that the said order was further challenged by Sadhu Ram and his sons, who are plaintiffs, before the Commissioner, by filing revision petition and appeal



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and the revision petition filed by the sons was dismissed but the appeal filed by Sadhu Ram was partly allowed to the extent that the land on which the old tenants were settled was allowed to be excluded from the surplus area. It is submitted that the said order was passed by the Commissioner on 19.12.1967 (Exhibit R-3) and thereafter the order recognizing the said benefit was passed by the Collector on 20.07.1968 (Exhibit P-2). It is submitted that thus, said Sadhu Ram was given the permissible area of 30 standard acres and the benefit of *banjar* land to the extent of 3 standard acres $14\frac{1}{2}$ units was allowed and further tenants permissible area was allowed as 17 standard acres $11\frac{1}{4}$ units and thus, an area of 27 standard acres $15\frac{1}{4}$ units was left as surplus area.

6. Learned senior counsel for the appellants has submitted that the present set of private defendants/allottees/resettled tenants have been given proprietary rights from the tenants permissible area which measures 17 standard acres $11\frac{1}{4}$ units. It is argued that since the said area was tenants permissible area and was excluded from the surplus area, thus, the said tenants were the tenants of the present appellants and in case the said tenants/resettled tenants wanted to purchase the property, then, the purchase money should have been paid to the present appellants and not to the State, as has been done in the present case. It is submitted that the trial Court had thus, rightly decreed the suit of the appellants and the First Appellate Court had wrongly allowed the appeals filed by the defendants and the State, without considering the said aspect. It is further submitted that the State could not have sold the said property to the set of private defendants and at best, the defendants could have purchased the same from Sadhu Ram under



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Section 18 of the Security Act, 1953. It is submitted that the judgment of the First Appellate Court in all the Regular Second Appeals thus deserves to be set aside to the extent that the suits of the plaintiffs have been dismissed.

ARGUMENTS ON BEHALF OF THE STATE:

7. Learned counsel for the State, on the other hand, has opposed all the Regular Second Appeals and has submitted that the allotment was made in favour of different set of private defendants on 09.12.1963 and the said allotment orders have not been specifically challenged in the suits, first of which was filed in the year 1981 i.e., after a delay of more than 18 years. It is further submitted that the said defendants are in possession of the suit land since 09.12.1963 and even prior thereto were in possession and have continued to be in possession and were in possession on 24.01.1971, which is the appointed date as mentioned in the Ceiling Act, 1972. It is submitted that as per the provision of Section 12(3) of the Ceiling Act, 1972, the area which had been declared surplus or tenants permissible area under the Punjab law shall be deemed to have been vested in the State Government with effect from the appointed date. It is submitted that thus, as per the said provision, even in case the land in question, as argued on behalf of the appellants, is taken to be tenants permissible area and not surplus area, then also, the same would vest in the State and would become ownership of the State and Sadhu Ram, the original landowner, would have no right over the said property. It is submitted that the State Government had every right to transfer the said property in favour of the defendants, who were resettled tenants and already had an allotment in their favour since 1963. It is submitted that the First Appellate Court in all the Regular Second Appeals



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had rightly allowed the appeals which had not been compromised, and the said judgments deserve to be upheld.

ANALYSIS AND FINDINGS:

8. This Court has heard learned senior counsel for the appellants as well as the counsel representing the State. None has appeared on behalf of the allottees.

9. After considering the entire record including the original record of the trial Court, this Court is of the opinion that all the Regular Second Appeals deserve to be dismissed and the judgments passed by the First Appellate Court in all the Regular Second Appeals deserve to be upheld for the reasons stated hereinafter.

10. The facts which have been duly recorded in the judgment dated 27.03.1989 of the First Appellate Court, which is the subject matter of challenge in RSA Nos.1369, 1370 and 1371 of 1989 and also in the judgment dated 22.08.1988, which is the subject matter of challenge in RSA No.947 of 1989 and are detailed hereinafter, are not in dispute. Sadhu Ram, the predecessor-in-interest of the plaintiffs/appellants was admittedly a big landowner having 79 standard acres 9 units of agricultural land. The proceedings under the Security Act, 1953 were initiated against said Sadhu Ram and vide order dated 25.05.1960, land measuring 49 standard acres and 9 units was declared as surplus. On 07.09.1961, the Commissioner had remanded the case on an appeal filed by said Sadhu Ram. Vide order dated 28.09.1962, after remand, the competent authority maintained the order dated 25.05.1960 (Exhibit D-2).

11. Various set of defendants, who were all ejected tenants were



resettled on the land which was declared surplus, vide order dated 25.05.1960. Some of the allotment orders dated 09.12.1963 passed in favour of the defendants have been exhibited as P-18, P-19 and P-20, a perusal of which would show that the said set of defendants were rehabilitated/settled on specific land. The said orders had been passed by the competent authority under the provisions of the Security Act, 1953. It is not in dispute that the possession of the said land was delivered to all the defendants in pursuance of the order dated 09.12.1963 and since then they have been in possession of the land and the fact that the present appellants had filed the present suits for possession in the year 1981/1982/1983/1985, fortify the said fact. Sadhu Ram had filed a writ petition which was allowed on 21.04.1965 and he was given an opportunity to select his permissible area and he was also given the benefit of *banjar* land. On 29.05.1965, an application was made to implement the said order of the High Court and on 10.09.1965 (Exhibit D-1), the benefit of *banjar* land to the extent of 3 standard acres $14\frac{1}{2}$ units was given and the surplus area was reduced to 45 standard acres $10\frac{1}{2}$ units. Revision petition and appeal was filed against the said order by Sadhu Ram and his sons. The revision petition filed by sons of Sadhu Ram was dismissed vide order dated 19.12.1967, whereas the appeal filed by Sadhu Ram was partly allowed and land to the extent of 17 standard acres $11\frac{1}{4}$ units, which was stated to be under old tenants, was excluded from the surplus area. The other pleas raised by said Sadhu Ram and his sons were rejected. The said order dated 19.12.1967 is exhibited as Exhibit R-3.

12. In pursuance to the said order, the Collector vide order dated 20.07.1968 (Exhibit P-2) had granted the benefit of 17 standard acres $11\frac{1}{4}$



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units as tenant permissible area and thus, the surplus area which was left was 27 standard acres 15¼ units. Thereafter an application was moved by Sadhu Ram on 08.10.1968 for eviction of the resettled tenants/defendants and the same was allowed vide order dated 31.08.1970 and even the appeal filed by the defendants/tenants was dismissed on 09.05.1972, however, a revision filed by the defendants/tenants was recommended to the Financial Commissioner by the Commissioner on 30.10.1972 (Exhibit D-3). The said recommendation was accepted by the Financial Commissioner on 08.05.1973 (Exhibit D-5) and the Financial Commissioner had remanded the case to the Assistant Collector, First Grade and had directed the Assistant Collector to decide the same after examination of the order of the Collector, Surplus Area, under which the landowners had got the area reserved. The parties were directed to appear before the Assistant Collector, First Grade, Thanesar on 28.05.1973. It is not in dispute that subsequent to the same, the eviction petitions were dismissed as withdrawn vide order dated 12.07.1973. It is not in dispute that the said orders have not been challenged and have attained finality.

13. It is not in dispute that proprietary rights of the defendants were confirmed in the year 1977 with respect to the land which was allotted to them in the year 1963.

14. Still dissatisfied, landowner Sadhu Ram along with his sons had filed ROR-344-1967-68 which was dismissed by the Financial Commissioner vide order dated 15.12.1969 (Exhibit D-7). The relevant portion of the said order is reproduced hereinbelow:

“This statement not only excludes the existence of



tenants old or new, but also relies mainly on the family partition, which obviously was designed to defeat the Punjab Security of Land Tenures Act. It was in pursuance of that aim that he obtained a Civil Court decree, which was rightly ignored by the Revenue authorities.

XXX XXX XXX

No decision has been shown to me which would justify a big landowner retaining land for himself and his family in excess of the permissible area by pleading that originally it was with tenants but later it was resumed by the sons or other members of the family. Only genuine tenants not related in the prohibited degree are protected and not spurious tenants, who happen to be minor sons or other close relations of a big landowner. To allow an unscrupulous landowner to retain excess land through such devious tactics would amount to countenancing blatant disregard of the spirit and provision of the Act. The law intends that no landowner should retain more than his permissible area, directly or indirectly, for himself and his family members, and to allow any deviation would violate the spirit of the Act. Further it would encourage unscrupulous landowners to evict old tenants improperly and substitute them by their relations.

For all these reasons, the revision petition must fail, and is rejected.

Orders to be communicated.

(To be translated into Hindi)

*Financial Commissioner,
Haryana.”*

A perusal of the above order would show that it was specifically observed that an unscrupulous landowner (Sadhu Ram) should not be permitted to retain excess land through devious tactics and no landowner should retain more land than the permissible area, directly or indirectly, for



himself and his family members and any deviation from the same would violate the spirit of the Security Act, 1953. The pleas raised by the plaintiffs, who were the sons of Sadhu Ram, to the effect that they have a decree in their favour and thus more land should be made permissible area was rejected. A writ petition i.e. CWP-478-1970 was filed by Sadhu Ram and his sons Ranjit Singh and Balbir Singh challenging the order dated 15.12.1969 and the said writ petition was dismissed by a coordinate Bench of this Court on 12.09.1979 (Exhibit D-6). In the said order, it was observed that whatever relief was due to the petitioners (present appellants and Sadhu Ram) had already been granted to them by the Commissioner. It is not in dispute that the said order was not challenged further and the same has attained finality.

15. The abovesaid orders were passed under the Ceiling Act, 1972 as well as under the Security Act, 1953. Section 26 of the Ceiling Act, 1972 which provides for a bar of jurisdiction is reproduced hereinbelow:

“26. Bar of jurisdiction.--(1) No civil court shall have jurisdiction to -

(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the right of the State Government to the surplus area under this Act; or
(b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Collector or the Prescribed Authority.

(2) No order of the Financial Commissioner, the Commissioner, the Collector, or the Prescribed Authority made under or in pursuance of this Act shall be called in question in any court.”

A perusal of the above would show that it has specifically been



stated that no Civil Court shall have jurisdiction to settle, decide or deal with any matter which is under the Ceiling Act, 1972 required to be settled/decided or dealt with by the Financial Commissioner, the Collector or the prescribed authority and no order of the Financial Commissioner, Commissioner, Collector or the Prescribed Authority made under this Act or in pursuance of this Act shall be called in question before any Court. Similarly Section 25 of the Security Act, 1953 provides for exclusion of Courts and authorities and the said provision reads as under:

“25. Exclusion of courts and authorities.- Except in accordance with the provisions of this Act, the validity of any proceedings or order taken or made under this Act shall not be called in question in any court or before any other authority.”

16. However in spite of the above, three civil suits were filed by the son, daughters and widow of Sadhu Ram. The first suit which was filed was Civil Suit No.664 of 1981. In the said suit, a prayer was made that the allotment orders passed by defendants No.1 and 2 (State of Haryana and Collector Agrarian, prescribed authority) in favour of defendants No.3 to 13 (resettled tenants who have been given proprietary rights) be declared illegal, null and void and possession of the suit property be given to the plaintiffs/appellants. In the said suit, no specific challenge has been made to the initial allotment order dated 09.12.1963. Details of the date on which proprietary rights had been given to the said defendants was given in paragraph 7 of the plaint and a perusal of the same would show that the date of the said orders was August/September 1977. The private defendants, who were ejected tenants and were resettled in pursuance of the order dated



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09.12.1963 and had continued to be in possession and whose possession was upheld by the authorities, were now made to face the present civil litigation, which was instituted by the legal representatives of the original landowner. Specific defence was raised on behalf of the State as well as the private defendants to the effect that the Civil Court jurisdiction was barred and that the land had already been allotted to the resettled tenants and utilized in the year 1963. Further objection was taken by the private defendants that the suit was also hit by the provision of *res judicata* as the matter had already been decided by the competent authority up to the level of Financial Commissioner under the Acts under which the issues were required to be considered and decided i.e. Security Act, 1953 as well as Ceiling Act, 1972. The other suits i.e. Civil Suit No.388 of 1983, Civil Suit No.870 of 1985 as well as Civil Suit No.359 of 1982, the details of which have been mentioned hereinabove, were filed on similar lines. Similar objections were raised by all the defendants in the said suits also.

17. The trial Court decided Civil Suit No.664 of 1981, Civil Suit No.388 of 1983 and Civil Suit No.870 of 1985 by one common judgment dated 06.02.1986 and had decreed all the said suits filed by the plaintiffs and had directed the defendants to deliver vacant possession of the suit land to the plaintiffs and the defendants were also restrained from alienating the suit land. Six appeals were filed against the said common judgment by the private defendants in each of the suits and also by the State. During the pendency of the appeals, as is observed in para 7 of the common judgment dated 27.03.1989 of the First Appellate Court, a compromise was effected between the present appellants/plaintiffs with a number of private defendants



and as far as those private defendants are concerned, the appeals were disposed of in terms of the said compromise and the suits of the plaintiffs qua those defendants were observed to be decreed in terms of the compromise. Appeals of the remaining defendants were allowed and the suit of the plaintiffs qua the said defendants were dismissed. Paras 7 and 17 of the common judgment of the First Appellate Court are reproduced hereinbelow:-

“7. Before proceeding to consider the various contentions, I would like to point out that some of the appellants have compromised with the plaintiff-respondents. They are Faggu Ram and Chhote Lal appellants of the first appeal, all the appellants except Dawarka and Munshi of second appeal and all the appellants except Dawarka of the third appeal. The copies of documents are also on file.

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17. No other issue has been assailed before me. In view of the reversal of the findings of the lower court on the main issues, the first three appeals qua the appellants, who have not compromised with the plaintiff-respondents succeed and are accepted. In case of appellants, who have compromised, the appeals are disposed of in terms of the compromise and the suits of the plaintiffs qua these appellants shall stand decreed in terms of the compromise. Qua the remaining appellants, the suit of the plaintiffs shall stand dismissed. The three appeals filed by the State are accepted and it is held that the orders passed by the State are valid and binding. Since the orders had been passed in favour of the appellants of the first three appeals and these have been up-held, and their appeals have been accepted to the extent indicated above, no separate relief can be given in these three appeals. In the peculiar circumstances of the case, there will be no order as to costs.

Announced in open Court



March 27, 1989”

18. Similarly, in the fourth civil suit i.e. Civil Suit No.359 of 1982, out of which RSA No.947 of 1989 arises, the trial Court vide judgment dated 22.12.1986 had decreed the suit of the plaintiff/present appellants and against the said judgment, three separate appeals were filed, one by the State and two by the defendants/allottees. During the pendency of the said appeals, the matter was compromised between the plaintiff and all the defendants except Ran Singh-defendant. As has been recorded in para 10 of the judgment of the First Appellate Court, in the said case, the landowners/appellants had received payment from all the allottees except Ran Singh and thus, on the said short point, the appeals except that of Ran Singh were allowed in view of the compromise. The appeal of Ran Singh was allowed on merits and the suit of the plaintiffs qua Ran Singh was dismissed. In the judgment of the First Appellate Court dated 22.08.1988, while considering the case of Ran Singh in detail, it was observed that five khasra numbers were allotted to Ran Singh and four of the khasra numbers which had been allotted to Ran Singh were out of the land which was declared surplus area and only one khasra number i.e. Khasra No.375 had not appeared in the list of surplus area but the said fact alone would not mean that the said land would be a part of permissible area of the landowner and the plaintiffs/landowners had failed to produce the list of the permissible area and it was further observed that it was upon the plaintiff to prove the said aspect. It was observed that the said Khasra No.375 fell in the list of khasra numbers which were in possession of the old tenants and thus, the same was tenants permissible area.



19. The primary argument raised on behalf of the appellants before this Court is that since the area which had been allotted in the year 1963 and regarding which proprietary rights had been given to the defendants after the coming into force of the Ceiling Act, 1972, was tenants permissible area, thus, the appellants who were the successor-in-interest of the original landlord (Sadhu Ram) had a right in the said area and the said tenants were the tenants of the present appellants and in case the defendants wanted to purchase the land, then, the purchase money was to be paid to the appellants, deserves to be rejected. Even assuming that the area which had been allotted to the defendants was tenants permissible area, as has been argued on behalf of the appellants, then also the appellants would have no right in the said land in view of Section 12 of the Ceiling Act, 1972. Section 12 of the Ceiling Act, 1972 is reproduced hereinbelow:-

“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 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 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 purpose 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.”

20. A perusal of Section 12(3) of the Ceiling Act, 1972 would clearly show that the area which has been declared as tenants permissible area under the Punjab Law (i.e. 1953 Act) is deemed to have been vested in the State Government w.e.f. from the appointed date. The appointed date, as defined in Section 3(c) of Ceiling Act, 1972, is 24th day of January 1971. Thus, from 24.01.1971, the said area would vest with the State Government and the plaintiff-appellants or original landowner who have already been given the benefit of permissible area would have no right left in the same. The proprietary rights with respect to the same have been rightly given by the State of Haryana to the defendants who were resettled on the said land vide allotment orders i.e. dated 09.12.1963 passed under the 1953 Act and which orders have not been specifically challenged in the suit. It is not in dispute that the defendants have been in possession of the suit property since 1963 till date and the present appellants or their predecessor Sadhu Ram have no interest left in the property. Moreover, as is apparent from the facts



detailed hereinabove, every proceeding was initiated by the landowner as well as the present appellants (his successors-in-interest) to seek possession from the defendants/tenants/allottees but the same was rejected by various orders passed under the Security Act, 1953 as well as Ceiling Act, 1972, which orders have attained finality and the said orders are in accordance with law and have been rightly passed and thus the Civil Court does not have the jurisdiction to entertain the suits in view of the provision of Section 26 of the Ceiling Act, 1972 and Section 25 of the Security Act, 1953 and the First Appellate Court has rightly allowed the appeals filed by the defendants and the State.

21. Keeping in view the abovesaid facts and circumstances, the judgments passed by the First Appellate Court in all the Regular Second Appeals are upheld and all the Regular Second Appeals are dismissed.

COCP-427-1996

22. In view of the fact that the Regular Second Appeals have been dismissed, learned senior counsel for the appellants has submitted that the contempt petition be disposed of.

23. Ordered accordingly.

24. Before parting with the present judgment, it would be necessary to place on record the appreciation for the learned senior counsel for the appellants Mr. Adarsh Jain for having very fairly assisted the Court in adjudicating the present set of appeals/contempt petition.

January 19th, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes