



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

RSA-311-1992 (O&M)

Judgment reserved on :04.11.2025

Judgment pronounced on 30.01.2026

**CHATTAR SINGH (SINCE DECEASED) THROUGH LRS &
OTHERS**

... APPELLANTS

VERSUS

STATE OF HARYANA & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Abhishek Shukla, Advocate and
Mr. Aditya Sharma, Advocate
for the appellants.

Mr. Abhinav Mahant, AAG, Haryana.

Mr. Ranjit Singh Ghuman, Advocate and
Mr. Chand Ram Narwal, Advocate
for respondent Nos. 2 to 17.

PARMOD GOYAL, J.

The plaintiffs-appellants are aggrieved by the impugned judgment and decree dated 13.12.1991 passed by the learned Additional District Judge-I, Jind, whereby the judgment and decree dated 29.04.1991 passed by the learned Sub Judge, Ist Class, Narwana by which the suit for declaration filed by the plaintiffs-appellants had been decreed was set aside.

2. The plaintiffs in their suit for declaration claimed themselves



to be owners in possession of the suit land. It was asserted that the father of plaintiff-appellant Nos. 1 and 2 was a big landowner and vide order dated 21.08.1956, some of his land was declared surplus under the PEPSU Tenancy and Agricultural Land Act, 1955 (hereinafter referred to as 'PEPSU Act' / '1955 Act'). Again, vide order dated 09.06.1961, 14 standard acres was declared surplus under the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as '1953 Act'). Appeals/revisions were preferred by father of the plaintiffs-appellant Nos. 1 and 2, however, the orders declaring the land surplus were affirmed. Thereafter, Dhan Singh, father of plaintiff Nos. 1 and 2, suffered a decree dated 27.04.1971 in favour of his sons and mutation Ex. P.2 was entered in favour of the sons of Dhan Singh, i.e., the plaintiffs. Notices dated 25.05.1970 (Ex. D.9) and 01.05.1973 (Ex. D.10) were served upon the landowner for handing over possession. Vide the said notices, it was further informed that the land stood allotted and the Tehsildar was directed to take possession and hand over the same to the allottees. The plaintiffs-appellants sought a declaration that the orders dated 21.08.1956 and 09.06.1961, by virtue of which the land had been declared surplus, as well as the orders dated 13.05.1970 and 29.05.1971, vide which the land was allotted to tenants, were illegal, void, without jurisdiction, and not binding upon the plaintiffs-appellants. The plaintiffs-appellants claimed themselves to be owners in possession of the suit property and further sought a decree of permanent injunction restraining the defendants from interfering in their rights.

3. The suit was contested on the ground that the land stood



vested in the State by virtue of Section 12(3) of the Haryana Ceiling on Land Holdings Act, 1972 (for short '1972 Act') with effect from the appointed date, i.e., 24.01.1971, and that the land had already been utilized; therefore, the plaintiffs had no right, title, or interest therein.

4. From the pleadings of the parties, the following issues were framed:

1. Whether the orders dated 21-8-1956 and 9-6-1961 vide which the suit land was declared surplus are null and void ? OPP.
2. Whether the orders dated 13-5-70 and 31-5-1973 passed by prescribed authority making allotment of suit land to tenants are also null and void ? OPP.
3. If issue No.1 and 2 are proved, then whether plaintiffs are entitled to the relief of permanent injunction against defendant as prayed for ? OPP.
4. Whether the suit is undervalued for the purposes of court fees and jurisdiction ? OPP.
5. Whether plaintiff has got no locus-standi to file the suit ? OPD.
6. Whether civil court has got no jurisdiction to try and entertain the suit ? OPD.
7. Whether the suit is time barred ? OPD.
8. Whether the suit is bad for want of notice u/s 80 of CPC ? OPD.
9. Relief.”

5. Three questions upon which the decision of the present case depends are:-



1. Whether possession of the suit property was delivered to defendant Nos. 2 to 4, namely, the tenants to whom the land was allotted as to complete utilization under 1953 Act.
 2. Whether the civil court has jurisdiction in view of the provisions of Section 26 of the Haryana Ceiling on Land Holdings Act, 1972; and
 3. Whether the land stood utilized before the appointed date, i.e., 24.01.1971, and therefore exclusively vested in the State by virtue of the Haryana Ceiling on Land Holdings Act, 1972.
6. Learned senior counsel for the plaintiffs-appellants has argued that since the land had not been utilized prior to the coming into force of the Haryana Ceiling on Land Holdings Act, 1972, either under the PEPSU Act or under the Punjab Security of Land Tenures Act, 1953 the order declaring the land surplus had not attained finality. It was further contended that the rights of the major sons, who were entitled to the suit land, ought to have been considered, as the sons of Dhan Singh had become majors prior to the utilization of the suit land, prior to the enforcement of the 1972 Act, and were therefore entitled to choose their permissible area. Reliance has been placed upon the following judgments in support of the arguments raised on behalf of the appellants:

- (1) **Kirpal Singh & Ors. Vs. Kamla Devi & Ors.**, 2020 (11) SCC 273;
- (2) **State of Haryana Vs. Ram Singh (Deceased) through LRs & Ors.**, date of decision 29.02.2024 in RSA-851-1991;



- (3) **Smt. Ajit Kaur & Ors. Vs. The Punjab State & Ors.**, 1981 AIR (Punjab and Haryana) 8;
- (4) **State of Haryana & Ors. Vs. Vinod Kumar & Ors.**, 1986 AIR (Punjab and Haryana) 407;
- (5) **Chandgi Vs. Financial Commissioner, Haryana**, 1984 PLJ 437;
- (6) **Financial Commissioner, Haryana Vs. Kela Devi**, 1980 AIR (Supreme Court) 309;
- (7) **Dharam Vir Vs. The Financial Commissioner, Haryana & Ors.**, 1980 PLJ 403;
- (8) **Gurdev Singh & Ors. Vs. State of Punjab & Anr.**, 1988 PLJ 317;
- (9) **Sher Singh Vs. Financial Commissioner of Planning, Punjab**, 1987 (2) SCC 439;
- (10) **State of Haryana through the Collector & Anr. Vs. M/s Universal Poultry Breeding Farm & Anr.**, 2020 (2) PLR 198; and
- (11) **Reshami Devi Vs. State of Haryana & Anr**, 2024 (2) PLR 449.

7. On the other hand, learned counsel for the defendants-respondents has argued that, by virtue of the Haryana Ceiling on Land Holdings Act, 1972, the land stood vested in the State, particularly in view of notices dated 25.05.1970 and 01.05.1973, vide which the landowner was directed to hand over possession. Reliance was also placed upon the rapat roznamcha, showing that possession of the suit land was taken over by the State. It was contended that the land stood utilized in view of its allotment as well as the taking over of possession



by the State and, therefore, the attainment of majority by the sons of the landowner would not confer any right to reopen the declaration of surplus land.

8. It was further argued that the suit is barred by the provisions of Section 26 of the Haryana Ceiling on Land Holding Act, 1972 (for short '1972 Act') and, therefore, is not maintainable. Reliance has been placed upon the following judgments in support of the respondents' case:

- (1) **Meg Raj (dead) Thr. L.Rs. & Ors. Vs. Manphool (Dead) Thr. L.Rs. & Ors.**, 2019 (4) SCC 636;
- (2) **State of M.P Vs. Ghisilal**, 2022 AIR (Supreme Court) 275;
- (3) **Devinder Singh & Ors. Vs. State of Haryana & Anr.**, 2006 (5) SCC 720;
- (4) **Amar Singh Vs. Ajmer Singh**, 1994 (3) PLR 433;
- (5) **Bharat Bhushan Vs. State of Haryana & Ors.**, 1990 PLJ 563;
- (6) **Nirbhay Singh & Ors. Vs. State of Haryana & Ors.**, 2003 (2) PLJ 1;
- (7) **Thath Singh Vs. State of Haryana**, 1986 PLJ 402;
- (8) **Smt. Radha Bai Vs. The State of Haryana**, 1997 (3) RCR (Civil) 509;
- (9) **Dharam Pal Vs. State of Haryana**, 2002 (2) RCR (Civil) 37;
- (10) **Smt. Bhagwanti Devi & Anr. Vs. State of Haryana & Anr.**, 1994 AIR (SC) 1869;
- (11) **Sampuran Singh Vs. State of Haryana & Ors.**, 1994 AIR (Supreme Court) 2126; and



(12) **Khushal Vs. Nathu Ram**, 2000 (1) RCR (Civil) 165.

9. The learned Court of first instance examined in detail the question as to whether possession of suit land was delivered to the allottees in pursuance of the allotment letters dated 13.05.1970 and 31.05.1973. In order to prove that possession of the land was never delivered to the allottees, the plaintiffs-appellants placed reliance upon the jamabandi for the years 1976–77 (Ex. P-3 and P-4), jamabandi for the year 1981–82 (Ex. P-5), mutation No. 3359 (Ex. D-6), mutation No. 3308 (Ex. P-7), mutation No. 3424 (Ex. P-7), mutation No. 3439 (Ex. P-8), mutation No. 2758 (Ex. P-9), khasra girdawari up to the year 1986 (Ex. P-10 and P-11), and khasra girdawari up to the year 1989 (Ex. P-16).

10. The plaintiffs-appellants also examined one of the tenants, to whom land had been allotted, as PW-1 - Lal Chand, who specifically asserted that although the suit land was allotted to him, possession was never handed over. Other prosecution witnesses, namely PW-2-Gaje Singh, PW-3-Parhlad, PW-4-Ishwar Singh Lambardar, and PW-5-Sarta Ram, including the Sarpanch of the village, supported the plaintiffs'-appellants' case regarding non-delivery of possession and stated that it was the plaintiffs who remained in possession of the suit land. On the other hand, the defendants placed reliance upon Ex. D-9 and Ex. D-10 dated 25.05.1970 and orders dated 17.06.1970 (Ex. D-11 and Ex. D-12), whereby possession of the land was allegedly handed over to the allottees. However, in cross-examination, it was admitted that actual possession of the suit land was never handed over to defendant Nos. 2 to

8. It is also not in dispute that vide orders dated 17.05.1983 (Ex. P-21 to



Ex. P-26), the allotments in favour of the defendants were cancelled on account of their failure to deposit of installments. On the basis of the evidence led by the parties, the learned Court of first instance rightly concluded that possession of the suit land was never taken by the State prior to the coming into force of the Haryana Ceiling on Land Holdings Act, 1972. Mere issuance of notices for taking possession dated 13.05.1970 and the taking of symbolic possession, in the absence of actual physical possession, would not amount to taking over possession before the appointed date and, therefore, would not constitute utilization of surplus land by the State prior to the enforcement of the 1972 Act.

11. Though the learned Appellate Court differed from the conclusion drawn by the learned Court of first instance, however it had not discussed in detail whether possession had actually been delivered to the allottees or whether the land stood utilized prior to the enforcement of the 1972 Act. It merely concluded that once the 1972 Act had come into force, even symbolic possession of the land would justify vesting in the State and that the declaration of surplus area could not be reopened. The learned Appellate Court has not gone into the issue of delivery of possession prior to the enforcement of the Haryana Ceiling on Land Holdings Act, 1972. In view of the facts recorded by both the courts below, it is clearly established that up to the year 1989, even the revenue records continued to reflect the name of the plaintiffs-appellants as owner in possession, and none of the allottees was shown to be in possession of any portion of the land allotted to them. No evidence has been led by the allottees to demonstrate their possession over the suit land. Rather, even



while appearing as defence witnesses, the allottees failed to prove that possession was taken prior to the enforcement of the 1972 Act.

12. In view of the foregoing discussion, it is therefore clearly made out that the finding of the learned Court of first instance that actual possession of the surplus land was never delivered to the allottees prior to the enforcement of the 1972 Act and land had not vested in State prior to enforcement of 1972 Act, cannot be faulted with and is accordingly affirmed.

13. Learned counsel for the defendants-respondents have relied upon judgments titled as **Meg Raj (dead) Thr. L.Rs. & Ors. Vs. Manphool (Dead) Thr. L.Rs. & Ors.**, 2019 (4) SCC 636; **State of M.P Vs. Ghisilal**, 2022 AIR (Supreme Court) 275; **Devinder Singh & Ors. Vs. State of Haryana & Anr.**, 2006 (5) SCC 720; **Smt. Radha Bai Vs. The State of Haryana**, 1997 (3) RCR (Civil) 509; to argue that section 26 (b) of 1972 Act clearly bars filing of civil suit to examine legality of order passed by Prescribed Authority under the Act. The legal principle stated in referred judgments that the declaration of surplus land by the competent authority cannot be questioned before a Civil Court in view of the bar contained in Section 26 of the Haryana Ceiling on Land Holdings Act, 1972, and that the only remedy available to a person aggrieved by an order declaring land surplus is by way of appeal or revision under the Act, is well settled and not in dispute. An order declaring surplus area is, therefore, generally not amenable to the jurisdiction of the civil court.

However, there are exceptions to this general rule. Hon'ble Supreme Court in **Kamla Mills Ltd. Vs. State of Bombay**, AIR 1965 Supreme



Court 1942 (Seven Judges – Constitutional Bench) had concluded that if the Tribunal/Court constituted under a special statute is found to have acted in violation of principles of natural justice or against the procedure prescribed under the special statute then the Civil Court has jurisdiction. The Hon'ble Supreme Court in **Kamla Mills Pvt. Ltd. Vs. State of Bombay (supra)** had held that Civil Court has got primary jurisdiction over all disputes under Section 9 of Code of Civil Procedure, 1908. To find out whether a civil court is barred under provisions of Section 26 of 1972 Act, the test would be whether there was a violation of 1972 Act/1953 Act/PEPSU Act committed by authorities or there was breach of natural justice. This Court in **State of Haryana through the Collector and Another versus M/s. Universal Poultry Farm and Another**, 2020 (2) PLR 198 by relying upon judgment of **Kamla Mills Pvt. Ltd. (supra)** held that jurisdiction of civil court is not barred if order impugned is violative of law or natural justice.

14. Moreover, the issue raised by the plaintiffs-appellants does not pertain to the finality or legality of the orders declaring suit land as surplus land. Rather, their specific case is that although the land was declared surplus vide orders dated 21.08.1956 and 09.06.1961, the proceedings relating to the surplus area did not attain finality, as possession of the land so declared surplus was never taken by the State. In the absence of utilization, the orders declaring the land surplus in the hands of the landowner did not become operative against his rights prior to the enforcement of the 1972 Act. The rights of major sons of the landowner had come into force prior to the utilization of the land so



declared surplus. Thus, the plaintiffs are not challenging the validity of the orders declaring the land surplus; rather, they are challenging the operation and effect of those orders on account of non-utilization of the surplus land till the appointed date and effect of section 10-A(b) of 1953 Act as discussed in later part of judgment. The nature of the dispute raised by the plaintiff-appellants is, therefore, amenable to the jurisdiction of the civil court, particularly when no alternative remedy is available to the landowner/plaintiffs under 1953 Act or under the 1972 Act. None of the judgments relied upon by learned counsel for the defendants with respect to lack of jurisdiction are applicable, as the issue in the present case does not relate to the validity of the declaration of surplus land. Rather, it concerns the failure of the State to utilize the surplus land prior to the accrual of rights under Section 10-A(b) of 1953 Act.

15. Before proceeding further it would be necessary to note following gist of judgments referred by both sides as regards to effect of enforcement of 1972 Act.

- Under Punjab Land Reforms Act, Sections 5(1) and 4 if surplus area declared under old Act has not been utilised till the coming into force of the new Act, it is incumbent upon the Collector to give due notice to big land owner and consider the objections under new Act. Big landowner having three adult sons on appointed day competent to retain separate unit for each adult son- Surplus area Which was declared surplus under the old Act and have not been utilised till coming into force of the new Act will have to suffer reduction to that extent



(**Gurdev Singh & Ors. Vs. State of Punjab & Anr.**, 1988 PLJ 317).

- Land of a landowner declared surplus but not utilised by Government for resettlement of tenants would not be automatically bad. **Sher Singh Vs. Financial Commissioner of Planning, Punjab**, 1987 (2) SCC 439.
- Once possession of surplus land has been taken over by State Government and surplus land stood vested in State Government and landowner divested of surplus land before appointed day, he cannot recover possession by filing application under Section 8 (1) (a). **Nirbhay Singh & Ors. Vs. State of Haryana & Ors.**, 2003 (2) PLJ 1.
- Under Haryana Ceiling on Land Holdings Act land declared surplus shall be deemed to have vested in State with effect from appointed day i.e. 24.1.1971 (**Thath Singh Vs. State of Haryana**, 1986 PLJ 402)
- Proceedings which have become final under the Punjab Security of Land Tenures Act with regard to declaration of surplus area cannot be reopened. (**Dharam Pal Vs. State of Haryana**, 2002 (2) RCR (Civil) 37).
- Surplus land declared under the Punjab Act vest in the State from the date declaration, Even if the family of the big landowner had expanded and some minors have become major before its utilization, they are not entitled to have their permissible area in the surplus land since the declaration had become final (**Smt. Bhagwanti Devi & Anr. Vs. State of Haryana & Anr.**, 1994 AIR (SC) 1869)
- Once under Haryana Ceiling on Land Holdings Act, 1972 stood vested in the State, mere possession of surplus land would not create any right to claim any title in such land.



No fresh computation among the appellant and his sons is allowed. **Sampuran Singh Vs. State of Haryana & Ors.**, 1994 AIR (Supreme Court) 2126.

- Decree passed in civil suit in 1974 after enforcement of Haryana Ceiling on Land Holdings Act, 1972 has no effect on surplus land vested in state. (**Khushal Vs. Nathu Ram**, 2000 (1) RCR (Civil) 165)
- There is no provision under 1972, Act to reopen the proceedings finalised under 1953 Act. (**Amar Singh Vs. Ajmer Singh**, 1994 (3) PLR 433)
- Once surplus land vest with state under 1972 Act it cannot be determined again. (**Bharat Bhushan Vs. State of Haryana & Ors.**, 1990 PLJ 563).
- Section 33(2)(ii) clearly provides that repeal of 1953 Act shall not affect proceedings for determination of surplus areas pending immediately before commencement of 1972 Act under provisions of 1953 Act which shall be continued and disposed of as if this Act had not been passed. (**Kirpal Singh & Ors. Vs. Kamla Devi & Ors.**, 2020 (11) SCC 273 & (**RSA-851-1991 State of Haryana Vs. Ram Singh (Deceased) Through LRs & Ors.**, date of decision 29.02.2024)
- After determination of surplus area and the permissible area in the hands of a landowner under the Punjab Law or the PEPSU Law, death of landowner thereafter would protect heirs in the matter of determination of surplus area in their hands u/s 11 (5) of 1973. (**Smt. Ajit Kaur & Ors. Vs. The Punjab State & Ors.**, 1981 AIR (Punjab and Haryana) 8).
- On the death succession opened and, therefore, the land was required to be redetermined under the 1953 Act in



the hands of legal heirs because the death took place before the 1972 Act was enacted. Surplus area would not vest with State of Haryana on the appointed day i.e. 24.01.1971. **State of Haryana through the Collector & Anr. Vs. M/s Universal Poultry Breeding Farm & Anr.**, 2020 (2) PLR 198.

16. This Court in **State of Haryana versus Universal Poultry Farm and Another (supra)** had also taken note of provisions of Section 10-A(b) of 1953 Act and had concluded that in the cited case mandate of Section 10-A(b) of 1953 Act were applicable even with regard to area which is part of State of Haryana. It was further held that once succession opened before the enforcement of 1972 Act, clause (b) of Section 10-A of 1953 Act would have full play and merely 1972 Act has been enforced, it would not be in any manner defeat the benefit and right of heirs of big land owner by inheritance. It was duly noticed that Section 10-A(b) of 1953 Act starts with non-obstante clause. Thus, clause (b) has been placed at a higher pedestal than other provisions and reopening and re-determination of surplus area is envisaged in eventualities stated therein.

17. In the facts and circumstances of present case where land declared surplus in the hand of land-owner was not utilised by State prior to enforcement of 1972 Act, such land would not automatically vest in State. State is bound to redetermine surplus area, if any of the conditions stated in Section 10 A (b) of 1953 Act, exist. If conditions stipulated in Section 10-A(b) of 1953 Act are not made out then land shall vest in state. In case, any of the two condition stipulated in Section 10-A(b) of 1953 Act is made out, the area would be redetermined under the



provisions of 1953 Act as on appointed date.

18. In view of the above discussion, it is held that in the present case the surplus area determined in the hands of the landowner was not utilized by the State prior to the enforcement of the 1972 Act, and therefore the Civil Court has jurisdiction to try the issues raised by the plaintiffs-appellants.

19. It is further held that whenever land, though declared surplus under the 1953 Act, has not been utilized prior to the enforcement of the 1972 Act, the surplus area is required to be re-determined under Section 10-A(b) of 1953 Act. Such re-determination shall be governed by the provisions of the 1953 Act only if any of the conditions specified under Section 10-A(b) of 1953 Act had arisen prior to the enforcement of the 1972 Act. However, if the land stood utilized prior to the enforcement of the 1972 Act by way of allotment and taking of possession, the same shall vest exclusively in the State. Similarly, even where the land has not been utilized and none of the conditions laid down under Section 10-A(b) of 1953 Act had arisen prior to the enforcement of the 1972 Act, such land shall also vest in the State from the appointed date, i.e., 24.01.1971. It is only in the eventuality of any condition specified under Section 10-A(b) of 1953 Act having arisen that re-determination is required to be carried out as on a date immediately preceding the appointed date. In the present case, no such exercise has been undertaken by the State. The State was duty-bound to determine whether the surplus area was liable to be re-determined on account of the existence of any of the conditions enumerated under Section 10-A(b) of 1953 Act. Since this exercise has



not been carried out, the present appeal is allowed. The competent authority shall, under the provisions of the 1953 Act in view of Section 33 repealing provisions under 1972 Act, determine whether any of the conditions specified under Section 10-A(b) of 1953 Act had arisen in favour of the landowner prior to the appointed date under the 1972 Act. If such conditions are found to exist, the surplus area shall be re-determined accordingly under the 1953 Act. In case none of the conditions specified under Section 10-A(b) are made out, the surplus land shall vest in the State.

20. The appeal is allowed in the above terms.
21. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

30.01.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No