



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

(221)

RSA-5124-2003 (O&M)

Reserved on :- 08.04.2026

Date of Pronouncement:-17.04.2026

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**THE HARYANA STATE THROUGH SECRETARY TO GOVERNMENT
HARYANA AND OTHERS**

... Appellants

Versus

AMRISH KUMAR AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Ved Parkash, Sr. DAG, Haryana.

Mr. Brijesh, Advocate,
Ms. Akansha, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been preferred by the appellant–State of Haryana assailing the judgment and decree dated 08.02.2003 passed by the learned Additional District Judge, Hisar, whereby the appeal instituted by the State came to be dismissed and the judgment and decree dated 18.05.1998 passed by the learned Trial Court were affirmed.

2. The factual backdrop, as emerging from the pleadings, may briefly be delineated thus: the respondents–plaintiffs, claiming themselves



to be the legal heirs of one Mansaram, instituted a suit for declaration seeking a declaration to the effect that the orders passed by the Settlement Officer-cum-Assistant Settlement Officer, Ambala dated 19.02.1987; Naib Tehsildar (Sales), Hisar dated 08.02.1998 and 30.06.1986, as approved by defendant No.2 vide order dated 28.07.1988, are illegal, null and void, contrary to the instructions issued by the State of Haryana, and not binding upon their rights.

2.1. It is pleaded that Mansaram, being a displaced person, was initially allotted land measuring 32 standard acres and 14 units. Subsequently, upon his application, an additional allotment of 9 standard acres and 4 units was made, thereby increasing his total holding to 42 standard acres and 2.5 units. After his demise, Bishan Das succeeded to the said property. A portion of the land was thereafter sold to one Deewan, and the present plaintiffs, being successors-in-interest of Bishan Das, instituted a suit for pre-emption, which came to be decreed in their favour.

2.2. It is further the case of the plaintiffs that, on 20.08.1976, land measuring 8 standard acres and 10.5 units out of the total allotted area was cancelled on the ground that the same had been allotted in excess. Thereafter, the Naib Tehsildar, Hisar, vide order dated 30.06.1988, in continuation of an earlier order dated 18.02.1988, ordered the retrieval of land measuring 205 kanals 10 marlas (equivalent to 23 standard acres and 13.5 units) from the plaintiffs.

2.3. The plaintiffs offered to purchase the said area at the rates prescribed by the Government, as permissible under the applicable policy. The competent authority, vide order dated 30.06.1986, permitted such



purchase at the rates so determined, which decision was duly approved by the Joint Secretary vide order dated 28.07.1988. Subsequently, the Naib Tehsildar, vide order dated 25.09.1996, assessed the value of the land measuring 8 standard acres and 10.5 units proposed to be retrieved as 279 kanals 17 marlas.

2.4. It is further averred that the Settlement Officer, vide order dated 19.02.1987, while deciding the appeal, directed the retrieval of 8 standard acres and 10.5 units out of the excess allotment of 9 standard acres and 4 units, on the basis of the standard valuation as reflected in the consolidation records. However, in execution thereof, land measuring 205 kanals 10 marlas, equivalent to 23 standard acres and 13.5 units, was actually retrieved vide order dated 30.06.1988.

2.5. The plaintiffs assert that the amount so determined was paid by them under protest. The impugned orders were challenged, inter alia, on the grounds that the plaintiffs were entitled to purchase only the excess area of 8 standard acres and 10.5 units at the rates determined by the rehabilitation authorities, and not at the enhanced valuation determined by the consolidation authorities. It was further contended that the rates applicable should be those prevailing at the time of the original allotment in the year 1951. It is also alleged that the plaintiffs were not afforded an opportunity of hearing prior to the passing of the impugned orders by the Naib Tehsildar (Sales), and that the consolidation proceedings in village Barwala, conducted during the year 1961–62, resulted in an inflated valuation of the land.



3. The defendants contested the suit by filing a written statement, asserting that the impugned orders had been passed strictly in accordance with the prevailing policy of the State Government and in due compliance with the applicable statutory provisions. It was thus prayed that the suit be dismissed. The plaintiffs filed a replication, reiterating their stand and controverting the assertions made in the written statement.

3.1. Upon the pleadings of the parties, the learned Trial Court framed the following issues for determination:-

1. Whether the impugned orders of the
 - i) The settlement officer (Sales)-cum-Assistant Commissioner, Ambala dated 19.02.1987.
 - ii) Naib Tehsildar (Sales), Hisar dated 08.02.1988 and 30.06.1988 (the letter approved by defendant No.2 on 28.07.1988) are wrong, illegal, void biased, arbitrary, discriminatory, wanton and capricious against law and instructions of the Haryana State Government Principles of natural justice, equity and good conscience as alleged in para 4 of the plaint? OPD
2. Whether the civil Court has no jurisdiction to try this suit? OPD
3. Whether the plaintiffs have no locus-standi to file the suit? OPD
4. Whether the suit is bad for non-jurisdiction of the Union of India, and whether Union of India is a necessary party? OPD
5. Whether the suit is barred by the principle of rejudicate and Order 2 Rule 2 CPC? OPD
6. Relief.

4. Upon the completion of pleadings, both parties were duly afforded adequate and effective opportunities to adduce their respective



oral as well as documentary evidence in support of their claims and defences. After a comprehensive evaluation of the entire evidentiary material brought on record, and upon hearing the learned counsel for the parties at length, the learned Civil Judge proceeded to decree the suit in favour of the plaintiffs.

4.1. Aggrieved by the said judgment and decree, the appellant–State preferred an appeal before the learned First Appellate Court. However, the learned Appellate Court, upon reappraisal of the pleadings and evidence, found no infirmity in the findings recorded by the learned trial Court and, consequently, dismissed the appeal, thereby affirming the judgment and decree passed in favour of the plaintiffs.

5. Being dissatisfied with and aggrieved by the concurrent findings of fact and law recorded by both the Courts below, the appellant–State has instituted the present Regular Second Appeal. The appeal was admitted for regular hearing vide order dated 26.04.2007, and the following substantial questions of law were framed for determination:-

1. Whether in the facts and circumstances of the case the respondent is entitled to get land in question at the rate fixed by the rehabilitation department or consolidation authorities?
2. Whether in the facts and circumstances of the case the jurisdiction of Civil court is barred and the judgment and decree of the courts below is thus legally unsustainable?
3. Whether in the facts and circumstances of the case the judgment and decree passed by the courts below are based on misreading and misappreciation of evidence and thus legally unsustainable?



6. I have heard learned counsel for the parties at considerable length and have bestowed my anxious, thoughtful, and judicious consideration upon their respective submissions, while meticulously examining the pleadings of the parties, the entire evidentiary material brought on record, and the concurrent findings returned by the learned Courts below.

7. Insofar as question Nos. 1 and 3 are concerned, the same being intrinsically interconnected, are taken up together for consideration. The learned First Appellate Court has recorded its findings upon a proper appreciation of law laid down by this Court in ***CWP-4392-1979, titled Lal Singh versus the Deputy Secretary to Government Haryana Rehabilitation Department and others, decided on 5th September, 1986.***

8. In the aforesaid case, the issue pertained to the determination of price of excess land allotted to the petitioner, which was assailed on the ground that the valuation had been determined on the basis of rates assessed by the Consolidation Authorities, whereas the same ought to have been determined in accordance with the valuation fixed by the Rehabilitation Department. This Court, while adjudicating the said controversy, held as under:-

"Mr. Cheema, learned Senior counsel for the petitioner, while conceding that the valuation of excess land to be transferred in favor of the allottee has to be determined on the basis of the rate prevalent on the day he offers to purchase the excess land, submits that the rehabilitation authorities have gone wrong in calculating the price of excess land to be transferred in his favor in as much as instead of charging the price of 27 standard acres of land, they seek to charge the price of 6.14 standard



acres at the following rate of price mentioned in “Annexure P6” on the basis of which the above noted price has been worked out is not in dispute. The stand of the department is that since the petitioner is being transferred 6.14 standard acres as per the latest valuation, the department is well entitled to charge the above noted price.

Having heard the learned counsel for the parties at some length, I find no merit in the stand of the respondents.

As is evident from the rate of price mentioned in (Annexure P6) itself, for the first two standard acres, as evaluated by the Rehabilitation Department for the purpose of allotment and cancellation, the price has to be Rs.5000/- per acre. For the remaining tie units in the instant case, it has to be at the rate of Rs.5200/- per acre. For working out this price, the Rehabilitation Authorities cannot possibly depend on the valuation put on the excess land by the Consolidation Authorities. It may be that in case the excess land in the possession of the petitioner has to be physically retrieved, then he may have to be deprived of 6.14 standard acres as per the valuation of the Consolidation Authorities because that value would be equivalent to tie standard acres of the Rehabilitation Authorities. Yet in the instant case, the excess land is being transferred to the petitioner in accordance with the rules and instructions. For purposes of this transfer, the Rehabilitation Authorities have to stick to the price fixed by them for a standard acre of land as per their own valuation.”

9. The factual matrix of the present case is substantially analogous to the one considered in ***Lal Singh (supra)***. Consequently, the learned First Appellate Court has rightly concluded that the valuation determined by the Rehabilitation Department is to prevail, and not that of the Consolidation Authorities. There is neither any misreading nor any misappreciation of evidence discernible in the findings recorded by the



learned First Appellate Court. Accordingly, question Nos. 1 and 3 are answered against the appellants and in favour of the respondents-plaintiffs.

9.1. Insofar as question No. 2 is concerned, both the learned Courts below have concurrently held that the impugned orders passed by the competent authorities were vitiated on account of violation of the fundamental principles of natural justice, as no effective opportunity of hearing was afforded to the respondents-plaintiffs prior to the passing of such orders. In view thereof, the statutory bar to the jurisdiction of the Civil Court under Section 46 of the Administration of Evacuee Property Act, 1950 and Section 36 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 would not be attracted.

9.2. The learned First Appellate Court has elaborately examined this aspect and has returned a categorical finding that since the valuation of the land in question was determined on the basis of its nature and classification by the concerned authorities, the Civil Court retained the jurisdiction to entertain and adjudicate the dispute. It has further been rightly observed that the exclusionary provisions contained in Sections 36 and 46 of the aforesaid enactments would not operate in the facts and circumstances of the present case.

10. The learned Trial Court, while adjudicating the controversy, held that the order of re-allotment of land on the basis of prevailing valuation was contrary to the principles of natural justice. It was further observed that any order passed in contravention of the principles of natural justice would not operate as a bar to the jurisdiction of the Civil Court. Reliance in this regard was placed upon the judgment of this Court in *State*



of Haryana vs. Vinod Kumar, 1986 CLJ 161. The said findings have been duly affirmed by the learned First Appellate Court.

10.1. It is no doubt true that Sections 36 and 46 of the aforementioned statutes curtail the jurisdiction of the Civil Court; however, it is equally well-settled that where the authorities act dehors the provisions of the governing statute or in violation of the principles of natural justice, the Civil Court would retain jurisdiction to examine and adjudicate the dispute. In the present case, both the Courts below have concurrently found that the re-allotment was effected without affording any opportunity of hearing to the concerned allottees and was thus vitiated by violation of principles of natural justice. Authorities while passing the impugned orders cannot be held to be acting in accordance with provisions of those Act.

10.2. In such circumstances, this Court finds no illegality, perversity, or infirmity in the concurrent findings recorded by the learned Courts below. The conclusions arrived at are legally sound, well-reasoned, and do not warrant any interference in the exercise of appellate jurisdiction.

10.3. Accordingly, in light of the foregoing discussion, the present appeal, being devoid of merit, stands **dismissed**.

11. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In view of the conclusions reached herein, no separate or



independent orders are required to be passed in respect thereof, as the same have been rendered infructuous.

17.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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