



LPA-1418-2019 (O&M)

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

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LPA-1418-2019 (O&M)

Date of Decision :23.02.2026

State of Haryana and others

...Appellants

Versus

**Rajinder Singh (since deceased) through his LRs
and others**

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sandeep Chabbra, Addl. A.G. Haryana
for the appellant-State.

Mr. Sunil Pawar, Sr. Advocate with
Mr. Gopal Sharma, Advocate for respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Mr. Gopal Sharma, Advocate has filed vakalatnama on behalf of respondents with no objection from earlier counsel. Same is taken on record.

2. In the present appeal, challenge is to the impugned order dated 25.04.2017 passed by the learned Single Judge of this Court in CWP-24315-2015 by which, the writ petition filed by the respondents herein, challenging the order dated 18.11.2014 passed by the Financial Commissioner (DB-II), Haryana, Chandigarh by which order, the Financial Commissioner while taking a *suo-motu* cognizance of an order dated 07.04.1995 passed by the

Sub-Divisional Officer, Meham had set aside the same.



3. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

4. The predecessor-in-interest of the respondent namely, Baldeva was a big land owner and at his hands the land measuring 106 standard acres situated in Village Bhiani Chanderpal, Tehsil Meham, District Rohtak was declared surplus vide order dated 01.01.1960 passed under the Punjab Security of Land Tenure Act, 1953 (hereinafter referred to as '1953 Act'). The said order attained finality.

5. On 17.01.1995, after a period of 35 years of land being declared surplus, the successor-in-interest of Baldeva filed an application for the release of the land from the surplus pool. The Sub Divisional Officer Civil-cum-prescribed authority, Meham on 07.04.1995 accepted the said application and directed the release of the land from the surplus pool so as to give the same to the respondents herein.

6. That when the fact that the Sub-Divisional Officer on 07.04.1995, had passed an order after a period of 35 years of passing of the order dated 01.01.1960 passed under the 1953 Act wherein the said land had already not only been declared surplus but had also attained finality, came to the knowledge of the Financial Commissioner, the Financial Commissioner by taking suo moto cognizance passed an order dated 18.11.2014 setting aside the order dated 07.04.1995 passed by the Sub Divisional Officer, Meham.

7. Said order of the Financial Commissioner dated 18.11.2014 came to be challenged at the hands of the respondents herein (writ petitioners) in CWP-24315-2015 before the learned Single Judge of this

Court. In the said writ petition, the respondents herein had argued that



the benefit given under Section 8 of the Haryana Ceiling on Lands Holdings Act, 1972 (hereinafter referred to as '1972' Act) vide order dated 07.04.1995 which order was passed by the Sub-Divisional Officer directing the release of the disputed land from the surplus pool and further directing the mutation to be sanctioned in the names of the appellants-respondents herein, could not have been set aside by the Financial Commissioner and further placed reliance upon the judgment of the Hon'ble Supreme Court of India in **Loku Ram vs. State of Haryana 2000(1) RCR (Civil) 141** which was reiterated by the Division Bench of this Court in **Latoor Singh and others vs. State of Haryana and another, 2016 (4) RCR (Civil) 16** for the reason that such power can be exercised only within a reasonable time.

8. Learned Single Judge of this Court while accepting the plea of the petitioners-respondents herein and without going into the validity of the challenged order therein dated 07.04.1995 passed by the Sub-Divisional Officer held that once, the said order dated 07.04.1995 remained in operation for more than 10 years, the Financial Commissioner could not have recalled the same under any circumstances so as to uphold the validity of the release of the disputed land from the surplus pool in favour of the respondents, that too after a period of 35 years of surplus proceedings had attained finality. Hence, the said order dated 25.04.2017 passed by the learned Single Judge of this Court is under challenge in the present appeal.

9. Learned counsel for the appellant-State submits that once the surplus proceedings had come to an end on 01.01.1960 by treating the land as surplus land in the hands of Baldeva being the predecessor-in-interest of the respondents herein, no provisions have been cited by the respondents



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herein to file an application under the 1972 Act after a period of 35 years since the year 1995 to reopen such concluded proceedings and in the absence of any such statutory power under 1972 Act to reopen the settled position between the parties qua the surplus land vide order dated 01.01.1960 which land automatically vests with the State of Haryana under Section 12(3) of the 1972 Act, the order dated 07.04.1995 could not have been passed by the sub-divisional officer. In pursuant to such perversity in exercise of power, learned Single Judge of this Court ought to have decided the validity of the order dated 07.04.1995 passed by the Sub-Divisional Officer rather than the validity of the order dated 18.11.2014 passed by the Financial Commissioner by which illegality so done was undone. Hence, the order dated 25.04.2017 passed by the learned Single Judge of this Court is liable to be set aside.

10. Learned counsel for the appellant-State further submits that in the absence of any statutory remedy available at the hands of the respondents herein qua the reopening of the surplus proceedings under 1972 Act any order passed under 1953 Act and that too after a period of 35 years of the order dated 01.01.1960 declaring the land in question as surplus land at the hands of the predecessor-in-interest of the respondents and that too after proceedings attaining finality, the order dated 07.04.1995 is to be treated as an order passed without jurisdiction and an order passed surpassing the limitation prescribed. Hence, learned Single Judge of this Court, vide order dated 25.04.2017, has wrongly set aside the order passed by the Financial Commissioner dated 18.11.2014 on the ground that the suo motu action so taken by the Financial Commissioner was delayed i.e. after



almost 10 years. Hence, the order passed by the learned Single Judge of this Court is contrary to the law and is liable to be set aside.

11. Learned counsel for the appellant-State further submits that even if it is assumed for the sake of arguments that the Financial Commissioner is also to be held accountable for invoking a jurisdiction after a period of 10 years on account of taking suo moto cognizance in 2005, the learned Single Judge of this Court should have applied the said judgment in **Loku Ram (supra)** when Sub-Divisional Officer invoked the jurisdiction after a period of 35 years of the matter attaining finality qua the declaration of the land in question as surplus land at the hands of the predecessor-in-interest of respondents herein namely, Baldeva on whose behalf, the respondents herein were claiming release of the land. Therefore, consequently, the said judgment in **Loku Ram (Supra)** if applied, renders the order dated 07.04.1995 also to have been passed without jurisdiction and, merely applying the judgment only on the order dated 18.11.2014 of Financial Commissioner by the learned Single Judge of this Court is incorrect and hence, the impugned order passed by the learned Single Judge of this Court is liable to be set aside on this ground also.

12. Learned Senior counsel appearing for the respondents submits that even if the Sub-Divisional Officer had entertained the plea raised by the respondents herein after a period of 35 years and had decided the release of the land in question in favour of the respondents bad, the Financial Commissioner could have taken the required action within a reasonable time in frame in case such action/order was found to be bad. Therefore, the learned Single Judge of this Court, while setting aside the order dated



18.11.2014 passed by the Financial Commissioner, has rightly considered the fact of the long delay by the Financial Commissioner in taking the required action for the reason that it would cause prejudice to the respondents. Therefore, order passed by the learned Single Judge of this Court is liable to be upheld.

13. Learned Senior counsel for the respondents further argues that the validity of the order dated 07.04.1995 passed by the Sub Divisional Officer, was never specifically questioned while adjudicating the writ petition. Further, even if the validity of the said order dated 07.04.1995 had to be tested, the same cannot be termed as illegal, as the surplus declaration made in the year 1960 was under the 1953 Act, whereas the order dated 07.04.1995 passed was under the 1972 Act. Therefore, the 1995 order was legally sustainable and valid. Moreover, the land continued to remain in the possession of the respondents herein and the entries qua the mutation of the inheritance were duly sanctioned in their favour in the years 1961 & 1970, which supports the legality and validity of the order order dated 07.04.1995.

14. Learned Senior counsel for the respondents further submits that in the writ petition before the learned Single Judge, no written statement was filed by the appellant herein which led to the acceptance of the plea raised at the hands of the respondents herein. Therefore, in absence of any rebuttal before the learned Single Judge, the pleas now sought to be raised by the appellants herein in the present appeal ought not to be entertained.

15. Learned Senior counsel for the respondents further submits that the present appeal itself was filed with delay. Although, a ground was taken by the respondents to contest the condonation of such delay, the same was



condoned by the Court keeping in view the statement of the counsel on behalf of the respondents. However, it is submitted that the conduct of the State in approaching the Court belatedly should not be ignored as delayed action causes prejudice to the private citizens.

16. We have heard learned counsel for the parties and have gone through the record with their able assistance.

17. The facts which have been narrated hereinbefore clearly go to show that the surplus land attained finality vide order dated 01.01.1960 at the hands of the surplus land owner namely, Baldeva under 1953 Act. The said order attained finality during his life time. Once, the declaration of surplus land under the 1953 Act had attained finality, on the appointed date 24.01.1971 under the 1972 Act, all such land is deemed to vest in the the State of Haryana especially after a period of 23 years of 1972 Act when the Sub-Divisional Officer passed the order in the year 1995. Further it may be noted that nothing has come on record as to under what statutory provision, an application was made by the respondents for the release of their land.

18. On being asked to point out any such provision available under any Act to entertain the request dated 17.01.1995 of the respondents herein qua the release of their land for surplus pool after such proceedings attained finality in 1960, learned Senior counsel for the respondents has failed to point out any such provision under law, under which an application made in 1995 was maintainable so as to be entertained.

19. Once, an application was filed by the respondents for the release of the surplus land in the year 1995, which request was qua the surplus land which had already attained finality in 1960, the order dated

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07.04.1995 passed by the Sub-Divisional Officer was without jurisdiction for the reason that the learned counsel for the respondents failed to provide any statutory provision to entertain the said request. Any such order passed by an authority concerned which is without jurisdiction is to be treated a nullity for all intent and purposes. Hence, the order dated 07.04.1995 passed by the Sub-Divisional Officer for release of surplus land after a period of 35 years is to be treated as without jurisdiction so as to term the same as void.

20. As far as the order dated 18.11.2014 passed by the Financial Commissioner is concerned, it may be noticed that the said order was passed to correct the illegality committed by an officer i.e Sub-Divisional Officer, who passed an order dated 07.4.1995 which was beyond his jurisdiction. The detailed reasons for the same have been laid down by the Financial Commissioner while setting aside the said order of the officer to hold that after the land was declared surplus on 01.01.1960 in the life time of Baldeva, coupled with the fact that the said order gives the jurisdiction to the State of Haryana to be the owner of the said land as per Section 12 of the 1972 Act on the appointed date i.e. 24.01.1971, no application/request qua the reopening of the surplus proceedings could have been entertained by the Sub-Divisional Officer, especially after a long period of 24 years of the appointed date. Any jurisdiction assumed or order passed in violation to the statutory provision of 1972 Act will not give any right to any beneficiary as may be specified in the said order. Therefore, the learned Single Judge of this Court has failed to appreciate the said aspect of the controversy in the present case while setting aside the order dated 18.11.2014 passed by the Financial Commissioner, only to hold that the said order of the Financial



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commissioner was passed after a much long delay of the order passed by the Sub-Divisional Officer on 07.04.1995.

21. The question which arises is whether it can be said that, the order dated 07.04.1995 which was passed by the Sub-Divisional Officer, was well within the time frame as prescribed under 1953 Act as well as 1972 Act even if it is assumed for the sake of argument that there is a delay in passing the order dated 18.11.2014 by the Financial Commissioner. The answer to the same is no. Once, the initial order of the Sub-divisional officer dated 07.04.1995 lacks jurisdiction, the same was rightly set aside by the Financial Commissioner, which factum/aspect has not been acknowledged by the learned Single Judge of this Court while upholding the order dated 07.04.1995 of the sub-divisional Officer. Any order which is passed without jurisdiction is to be treated as void for all intent and purposes and void order is liable to be set aside by the authorities concerned.

22. With regard to the argument raised by the learned Senior counsel for the respondents that, any benefit given to a private individual could not be withdrawn after a period of 10 years, the same must be seen in the light of the facts and circumstances of each and every case. If any order has been passed by a competent authority having jurisdiction, it may be correct to assert that once such an order attained finality, it cannot ordinarily be recalled after a lapse of particular time, even if same is erroneous. However, the question that arises is whether such argument can be made applicable in a case where the order sought to be set aside is void and passed without jurisdiction or not. The answer to the same would be that the said argument will not be applicable in the present case as the order dated



07.04.1995 passed by the Sub-Divisional Officer was beyond jurisdiction. The application on the basis of which the said order was passed, was not maintainable under any provision of law, particularly when the declaration of the land as surplus land had already attained finality way back in the year 1960 and consequently the land had vested in the State of Haryana as per the 1972 Act with effect from 24.1.1972 whereas such application was moved much latter on 07.1.1995 i.e. after 23 years.

23. The last argument which has been raised by the learned Senior counsel for the respondents is based upon the judgment of the Hon'ble Supreme Court of India in **Loku Ram's case (supra)**.

24. It may be noticed that to make a judgment of the competent Court of law applicable, the facts of the case are to be seen. The wording used in an order cannot be imported without looking into the facts of the case where the judgment is sought to be made applicable. In **Loku Ram's case (supra)** which has been applied by the learned Single Judge of this Court to set aside the impugned order dated 18.11.2014 passed by the Financial Commissioner, the facts of the said judgment were entirely different from the facts of the present case in the sense that an order which was sought to be set aside after delay, was passed under the statutory provision of law and that too without giving any cogent reason for the same.

25. In the present case, the position is entirely different. The order dated 18.11.2014 passed by the Financial Commissioner was passed to set aside an order dated 07.04.1995 passed by the Sub-Divisional Officer, which order of the Sub-Divisional Officer was passed without jurisdiction especially in absence of any statutory remedy available with the respondents



to invoke the jurisdiction of the Sub-Divisional Officer either under the 1953 Act or under the 1972 Act.

26. Learned Senior counsel appearing on behalf of the respondents has not been able to rebut that there was no provision which existed with the Sub-Divisional Officer under which he exercised the said jurisdiction so as to entertain an application for the release of surplus land after a period of 35 years. The argument of the learned Senior counsel for the respondents that the reason for having jurisdiction was that the possession of the land remained with the respondents, cannot be accepted as the possession cannot entitle the respondents to be declared owner of the land especially by setting aside an order qua declaring the said land as surplus which order was passed 35 years ago in the life time of the predecessor-in-interest of the respondents, which order had already attained finality.

27. Further, reliance can be placed upon the judgment in Civil Appeal 3146-1989 titled as **Amar Singh and others vs. Ajmer Singh and others, decided on 11.07.1994** to hold that mere possession of the land will not give jurisdiction to reopen the finalization of the surplus land proceedings. Hence, the judgment in **Loku Ram's case (supra)** is not applicable in the facts and circumstances of the present case and the learned Single Judge of this Court has erroneously interpreted the said settled principle of law while passing the order dated 25.04.2017.

28. With regard to the judgment in **Latoor Singh's case (supra)**, the same is also not applicable in the facts and circumstances of the present case. In that case, the effect of 1972 Act particularly the provision relating to vesting of the land in question in the State after its declaration as surplus



under the 1953 Act was not considered. The question of surplus land which, on the date of the application, had already vested in the State under Section 12 of the 1972 Act was not before the Division Bench in the case of **Latoor Singh's case (supra).**

29. In the present case, as specific argument was raised before the Sub-Divisional Officer that the land had already vested in the State as per Section 12 of the 1972 Act. However, while passing of the order dated 07.4.1995 in favour of the respondents, the Sub-Divisional Officer failed to consider this aspect and proceeded to pass the order despite lacking jurisdiction to revert vesting in favour of the respondents.

30. Further, even if it is assumed for the sake of argument that there was delay on part of the Financial Commissioner in reopening the case in light of the judgments cited, then, the same judgments have to be made applicable even qua the order dated 07.04.1995 passed by the Sub-Divisional Officer also in the sense that whether it is correct on the part of the respondents to move an application after a period of 35 years of an order wherein the land held by the predecessor-in-interest of the respondents was declared surplus land had attained finality. Therefore, once, there is delay of 35 years on the part of the respondents in moving an application to acquire an order dated 17.01.1995 which order was passed by the Sub-Divisional Officer without having jurisdiction, then, accordingly, the recalling of such void order by the Financial Commissioner vide order dated 18.01.2014, cannot be set aside on the ground of delay.

31. Learned Single Judge of this Court has ignored the aforesaid facts while allowing the writ petition filed by the respondents herein.

No other argument has been raised.



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33. Keeping in view the facts and circumstances recorded hereinbefore, the order dated 25.04.2017 passed by the learned Single Judge of this Court is set aside and the order dated 18.11.2014 passed by the Financial Commissioner (DB-II), Haryana, Chandigarh setting aside the order dated 07.04.1995 passed by the Sub-Divisional Officer having been passed beyond jurisdiction and thus was treated as nullity, is upheld.

34. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

February 23, 2026

aarti *Whether speaking/reasoned :* *Yes*
 Whether reportable : *Yes*