



**CWP-2878-A-1996 (O&M) along with
COCP-2166-2024 (O&M)**

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

213

Date of decision: 08.04.2026

CWP-2878-A-1996 (O&M)

**Yash Paul and others through General Power
of Attorney Harvinder Singh**

....Petitioners

Vs.

State of Haryana and others

....Respondents

COCP-2166-2024 (O&M)

Harvinder Singh

....Petitioner

Vs.

Ramesh Kumar

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Jayoti Parshad Sharma, Advocate
for the petitioners.

Mr. Pankaj Mulwani, Senior DAG, Haryana.

Mr. P.S. Bajwa, Advocate
for respondents No.4 to 10.

HARSH BUNGER J.

This order shall dispose of two petitions i.e.

CWP-2878-A-1996 and COCP-2166-2024 and for the purpose of passing
order, the facts are being taken from CWP-2878-A-1996.

CWP-2878-A-1996.

2. Petition herein is, filed under Articles 226/227 of the
Constitution of India, seeking a writ in the nature of Certiorari, for setting



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aside the order dated 26.10.1994 (Annexure P-13) passed by learned Financial Commissioner, Haryana and to further quash certificate of allotment (Form US-3) dated 09.08.1995 (Annexure P-14) issued by learned Allotment Authority, Karnal in favour of Sh. Sadhu Ram (predecessor in interest of respondents No.4 to 10 herein).

2.1 Another prayer has been made to uphold and maintain the order dated 01.03.1988 (Annexure P-10) passed by learned Collector (Agrarian), Karnal and order dated 31.01.1989 (Annexure P-12) passed by learned Commissioner, Ambala Division, Ambala.

3. Briefly, Sh. Takan Dass s/o Sh. Milkhi Ram (father of proforma respondent No.11-Radha Krishan) was a big land owner of village Jundla, Tehsil and District Karnal. It appears that he transferred some of his land, (including land in question measuring 05 bighas - 11 biswas comprised in Khasra Nos.1245, 1513 and 1513/1) situated at Village Jundla, Tehsil and District Karnal in favour of his son Radha Krishan (proforma respondent No.11) vide a Civil Court decree dated 27.04.1959.

4. It transpires that the then learned Collector (Agrarian), Karnal, vide order dated 05.11.1962 declared 71 standard acres and $3\frac{3}{4}$ units of land of Sh. Takan Dass as “surplus area” under the Punjab Security of Land Tenures Act, 1953 (in short the “1953 Act”) by ignoring the transfer made vide Civil Court decree dated 27.04.1959..

5. Sh. Takan Dass is stated to have expired on 15.09.1967, whereupon, a mutation No.2342 as regards succession of his estate was



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sanctioned in favour of his sons, including proforma respondent No.11 – Radha Krishan.

6. It further transpires that out of the surplus land of Sh. Takan Dass, land to the extent of 24 bighas - 05 biswas comprised in pre-consolidation Khasra Nos.1560min(0-19), 1561(4-7), 1562(1-17), 1563(0-17), 1564(1-18), 1565(1-19), 1582(1-15), 1589(4-7), 1590(2-6) and 1591(4-0), came to be allotted in favour of Sh. Sadhu Ram s/o Sh. Prabhu Dayal (father of respondents No.4 to 9 and husband of respondent No.10 herein) vide order dated 25.09.1962 passed by learned Collector (Agrarian), Karnal, and its possession was delivered to Sh. Sadhu Ram on 20.05.1963.

6.1 Later on, another area measuring 05 bighas - 11 biswas comprised in Khasra No.1245 min(west), 1513min and 1513/1 also came to be allotted to above-referred Sh. Sadhu Ram, out of the surplus land of Sh. Takan Dass vide order dated 20.01.1965 (Annexure P-2) passed by the learned Collector (Agrarian), Karnal.

6.2 It appears that possession of land measuring 05 bighas - 11 biswas, came to be handed over to Sh. Sadhu Ram (allottee) vide possession proceedings dated 27.02.1965 (Annexure P-3), the relevant extract of the same reads as under:-

“Possession has been given/got delivered by demarcation at site to the tenant who is to get the possession. The tenant, who is to get the possession, is satisfied with this action. One copy of Form K-6 has been handed over to the tenant who is to take possession and one copy of Form K-6 has been handed over to the Patwari Halqa for record. Proclamation to this effect has been got made in the village through Sadhu, village Watchman



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according to rules. Patwari of the village has been instructed to make entry regarding these proceedings in the Roznamcha Wakiyati.”

6.3 In para No.10 of the writ petition, it is clearly conceded by the petitioners that during consolidation operation, the above-referred land measuring 05 bigha – 11 biswa was converted into area measuring 18 kanal - 04 marla, comprised in Khasra Nos.23/2min(3-4), 24(8-0) and 25(7-0).

7. The case of the petitioners is that their father namely Sant Ram s/o Sh. Sunder Dass and one Sh. Gurvinder Singh s/o Sh. Sardool Singh, purchased an area measuring 18 kanal - 15 marla comprised in Khasra Nos.212//4(0-11), 196//23/3(3-4), 24(8-0) and 25(7-0) situated at village Jundla, Tehsil and District Karnal, from Sh. Radha Krishan (proforma respondent No.11) vide sale deed dated 22.06.1974 on the belief that after the death of Sh. Takan Dass, Radha Krishan had become a small land owner.

7.1 It is averred that later on, Gurvinder Singh s/o Sh. Sardool Singh transferred his share in the aforesaid land measuring 18 kanal - 15 marla, in favour of Sh. Sant Ram (predecessor of the petitioners), therefore, Sh. Sant Ram became the sole owner of the above-referred area measuring 18 kanal – 15 mala [including 18 kanal - 04 marla area which was allotted to Sh. Sadhu Ram comprised in Khasra Nos.196//23/2(3-4), 24(8-0) and 25(7-8)].

8. It is averred that subsequently, with the enforcement of Haryana Ceiling on Land Holdings Act, 1972, a utilization scheme namely Haryana Utilization of Surplus and Other Areas Scheme, 1976 came to be framed by State of Haryana, whereunder, Sadhu Ram (predecessor of respondents No.4



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to 10) applied for issuance of Form (US-3), It is stated that, the learned Sub-Divisional Officer (Civil)-cum-Allotment Authority, Karnal did not issue the certificate to abovesaid Sadhu Ram in respect of the above-referred 18 kanal and 04 marla area. Although, a certificate in Form US-3 (Annexure P-5) was duly issued to Sh. Sadhu Ram in respect of area measuring 27 kanal - 19 marla in relation to first allotment made in his favour vide order dated 25.09.1962.

9. It appears that after the death of Takan Dass, proforma respondent No.11-Radha Krishan along with his brothers submitted an application dated 16.06.1978 before the learned Collector, (Agrarian)-cum-Prescribed Authority, Karnal, seeking exclusion of land of their father Sh. Takan Dass, from the surplus pool, whereupon order dated 05.03.1981 (Annexure P-6) came to be passed, whereby, 194 kanal - 09 marla area was excluded from the surplus pool.

10. In para No.20 of the writ petition, it is a categoric stand of the petitioners that since Sadhu Ram was seeking issuance of certificate of allotment in Form (US-3) under the Utilization Scheme, accordingly, their predecessor Sh. Sant Ram initiated proceedings before the learned Collector (Agrarian), Karnal with a prayer that certificate of allotment in Form (US-3) in respect of the 18 kanal - 04 marla be not issued in favour of Sadhu Ram; wherein, report dated 11.11.1985 (Annexure P-8) and report dated 14.11.1985 (Annexure P-9) came to be submitted, wherein it was stated that since Sadhu Ram did not obtain actual physical possession of the



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land comprised in Khasra Nos.196//23/2(3-4), 24(8-0) and 25(7-8), therefore, Form (US-3) cannot be issued in the name of Sadhu Ram.

11. It appears that considering the aforesaid report, the then learned Collector (Agrarian), Karnal vide order dated 01.03.1988 (Annexure P-10) ordered that Form (US-3) be not issued in favour of Sadhu Ram (predecessor of respondent No.4 to 10 herein).

12. Apparently, in year 1980, Sadhu Ram instituted a Civil Suit bearing CS No.251 of 1980 before the learned Senior Sub-Judge, Karnal, seeking declaration that the transfer of land by Takan Dass in favour of his son Radha Krishan (proforma respondent No.11 herein) vide decree dated 27.04.1959 and the subsequent transfer by Sh. Radha Krishan (proforma respondent No.11) in favour of the Sant Ram (predecessor of the petitioners) and Sh. Gurvinder Singh; was not binding on the allotment rights of Sh. Sadhu Ram and the same are liable to be set aside and ignored. A consequential relief for a decree of possession of 18 kanal - 04 marla area was also sought in the aforesaid suit.

12.1 The aforesaid suit came to be dismissed by the learned Trial Court vide judgment and decree dated 31.07.1982 (Annexure P-11) and aggrieved therefrom, Sh. Sadhu Ram preferred an appeal before the learned Additional District Judge, Karnal, which came to be allowed vide judgment and decree dated 05.12.1984, whereby the findings of the learned Trial Court were reversed and the suit filed by Sh. Sadhu Ram was decreed.

12.2 In para No.21 of the writ petition, it is an admitted position that the aforesaid judgment and decree dated 05.12.1984 passed by learned



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Additional District Judge, Karnal, decreeing the suit of Sadhu Ram in his favour was challenged by Sant Ram (predecessor of petitioners) before this Court by filing Regular Second Appeal; however, the same was dismissed and even a Special Leave Petition preferred against the same before the Hon'ble Supreme Court was also dismissed.

13. On the other hand, feeling aggrieved against the order dated 01.03.1988 (Annexure P-10) passed by learned Collector (Agrarian), Karnal, refusing to issue Form (US-3) to Sh. Sadhu Ram; he (Sadhu Ram) preferred an appeal before the learned Commissioner, Ambala Division, Ambala, which was also dismissed on 31.01.1989 (Annexure P-12).

13.1 Still aggrieved, Sh. Sadhu Ram preferred a revision petition (ROR No.230 of 1988-89) before the learned Financial Commissioner, Haryana, who vide order dated 26.10.1994 (Annexure P-13) set aside the aforesaid order dated 01.03.1988 (Annexure P-10) passed by learned Collector (Agrarian), Karnal and order dated 31.01.1989 (Annexure P-12) passed by learned Commissioner, Ambala Division, Ambala.

14. Thereafter, the learned Sub-Divisional Officer-cum-Allotment Authority, Karnal, issued certificate of allotment in Form (US-3) dated 09.08.1995 (Annexure P-14) in favour of Sh. Sadhu Ram (predecessor of respondents No.4 to 10 herein), whereupon, Sadhu Ram is stated to have been obtained possession of the aforesaid land measuring 18 kanal and 04 marla and even consequent mutation No.6322 also stands sanctioned in his favour.



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15. In the aforementioned circumstances, present writ petition has been filed before this Court, for seeking relief(s) as noted hereinabove.

16. I have heard the learned counsel for the respective parties and perused the paperbook with their able assistance.

17. Concededly, Sh. Takan Dass (father of proforma respondent No.11-Radha Krishan) was a big land owner of village Jundla and transferred 05 bigha and 11 biswas area in favour of proforma respondent No.11-Radha Krishan vide Civil Court decree dated 27.04.1959. Subsequently, the learned Collector (Agrarian), Karnal, vide order dated 05.11.1962 ignored the transfer made by Takan Dass in favour of proforma respondent No.11 vide Civil Court decree dated 27.04.1959 and declared 71 standard acres and $3\frac{3}{4}$ units land as surplus in the hand of Takan Dass under the 1953 Act. Out of the area of Takan Dass (which was declared surplus), Sh. Sadhu Ram (predecessor of respondents No.4 to 10) was allotted two parcels of land i.e. one parcel measuring 24 bigha - 05 biswas vide allotment order dated 25.09.1962 and second parcel measuring 05 bigha - 11 biswas vide allotment order dated 20.01.1965 (Annexure P-2). The second parcel of land was comprised of pre-consolidation Khasra Nos. 1531/1min(west), 1513min, 1245min(west).

18. Evidently, during the consolidation operation in the village, the aforesaid area measuring 05 bigha – 11 biswas was converted into land measuring 18 kanal - 04 marla comprised in Khasra Nos. 196//23/2(3-4), 24(8-0) and 25(7-0). The possession of the above-referred 18 kanal - 04 marla area was delivered to the Sadhu Ram vide possession proceedings



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dated 27.02.1965 (Annexure P-3). Subsequently, Takan Dass expired on 15.09.1967. It has not been shown to this Court that Takan Dass during his lifetime ever challenged the order dated 05.11.1962 passed by learned Collector (Agrarian), Karnal, whereby his 71 standard acres and $3\frac{3}{4}$ units of land was declared surplus.

18.1 Be that as it may, after demise of Takan Das on 15.09.1967, his land came to be transferred in favour of his sons (including proforma respondent No.11 herein). The predecessor of petitioners namely Sh. Sant Ram, is stated to have purchased land measuring 18 kanal - 15 marla from Sh. Radha Krishan (proforma respondent No.11) vide registered sale deed dated 22.06.1974, which included 18 kanal - 04 marla area which was allotted to Sh. Sadhu Ram (predecessor of respondents No.4 to 10).

19. It is borne out from the records that when the Haryana Ceiling on Land Holdings Act, 1972 came to be enacted and Utilization of Surplus and Other Areas Scheme was framed by the Government, Sh. Sadhu Ram was seeking certificate of allotment in Form (US-3) from the authorities, whereupon, the predecessor of the petitioners namely, Sh. Sant Ram preferred a petition before the learned Collector (Agrarian), Karnal with a prayer that certificate of allotment in Form (US-3) be not issued in favour of Sh. Sadhu Ram, whereupon, the learned Collector (Agrarian), Karnal passed an order dated 01.03.1988 (Annexure P-10) directing Form (US-3) be not issued to Sh. Sadhu Ram (predecessor of respondents No.4 to 10).

20. Evidently, in the meanwhile, Sh. Sadhu Ram had already filed Civil Suit bearing CS No.251 of 1980, seeking declaration that the transfer



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of property by Takan Dass in favour of Radha Krishan (proforma respondent No.11 herein) on the basis of learned Civil Court judgment and decree dated 27.04.1959 and the subsequent transfer of area by Sh. Radha Krishan (proforma respondent No.11) in favour of Sh. Sant Ram (predecessor of the petitioners) was not binding on the allotment made in the favour of Sh. Sadhu Ram and are liable to be set aside and ignored, with a consequential relief of possession as well. Although, the abovesaid civil suit filed by Sh. Sadhu Ram was initially dismissed by learned Trial Court; however feeling aggrieved, an appeal was filed by Sh. Sadhu Ram before the learned Additional District Judge, Karnal, which was allowed vide judgment and decree dated 05.12.1984 [Annexure R-1 (attached with the reply filed on behalf of respondents No.4 to 10 herein)].

20.1 The above-referred judgment and decree dated 05.12.1984 (Annexure R-1) has been further affirmed by this Court as well as the Hon'ble Supreme Court.

21. On the other hand, although the order dated 01.03.1988 (Annexure P-10) passed by learned Collector (Agrarian), Karnal directing that Form (US-3) be not issued to Sh. Sadhu Ram, was affirmed by learned Commissioner, Ambala Division, Ambala vide order dated 31.01.1989 (Annexure P-12); however, a further revision petition (ROR No.230 of 1988-89) filed by Sh. Sadhu Ram before the learned Financial Commissioner, Haryana, was allowed vide order dated 26.10.1994 (Annexure P-13) and the aforesaid order dated 01.03.1988 (Annexure P-10) passed by learned Collector (Agrarian), Karnal and order dated 31.01.1989



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(Annexure P-12) passed by learned Commissioner, Ambala Division, Ambala, respectively, were set aside.

21.1 As a consequence of the aforesaid order dated 26.10.1994 (Annexure P-13); learned Sub-Divisional Officer (Civil)-cum-Allotment Authority, Karnal issued certificate of allotment in Form (US-3) dated 09.08.1995 (Annexure P-14) in favour of Sh. Sadhu Ram (predecessor of respondents No.4 to 10).

22. The only ground raised by learned counsel for the petitioner is that, the land measuring 18 kanal - 04 marla, which was allotted to Sh. Sadhu Ram, the same was not utilized by the State as the actual physical possession thereof was never handed over to Sh. Sadhu Ram, therefore, the order dated 26.10.1994 (Annexure P-13) passed by learned Financial Commissioner, Haryana is liable to be set aside.

23. I have considered the aforesaid contention raised on behalf of the petitioner; however, I find no merit in the same. In fact, the aforesaid issue as regards delivery of possession of land in question to Sh. Sadhu Ram, had come up for consideration before the learned Additional District Judge, Karnal, in the appeal filed by Sh. Sadhu Ram against the Trial Court judgment dated 31.07.1982 (Annexure P-11), wherein the following issues have been noted in para No.4 therein:-

“4. With these pleadings, the following issues were framed on 7-10-88:-

- 1) Whether the land detailed in para No. 2 of the plaint was allotted to the plaintiff out of surplus land of Takan Dass defendant No. 2 and he*



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- (plaintiff was also delivered possession thereof on 27-2-1965, as alleged ? OPP
- 2) Whether the land detailed in para No.3 of the plaint was allotted in lieu of the said holding during the course of consolidation operation, as alleged ? OPP.
 - 3) Whether the transfer of the said land in suit measuring 18 kanals 4 marlas comprised in Khasra No. 23/2, 24 & 25 made by defendant No. 3 per sale deed dated 22.6.74 in favour of defendant No. 4 & 5 was illegal, void and inoperative on the rights of plaintiff as alleged ? OPP.
 - 4) Whether the plaintiff served a valid notice under section 80 C.P.C. before the institution of this suit ? OPP.
 - 5) Whether the suit is not maintainable in the present form ? OPD.
 - 6) Whether the Plaintiff has no locus standi to file and maintain this suit ? OPD.
 - 7) Whether this court had no jurisdiction to entertain and try this suit ? OPD.
 - 8) Whether the Plaintiff estopped by his own act and conduct from filing this suit ? OPD.
 - 9) Whether the suit had not been properly valued for the purpose of Court fee and jurisdiction ? OPD.
 - 10) Whether the defendants No 4 &5 are bonafide purchasers and the land was in occupation of defendant No. 6 as tenant, as alleged and if so, to what effect ? OPD.
 - 11) Relief.”

24. Out of the aforesaid issues, concededly issues No.2 to 10 had already been decided in favour of Sadhu Ram and as regards issue No.1, as to whether, the land in question was allotted to Sadhu Ram out of surplus area of Sh. Takan Dass, and Sh. Sadhu Ram was already delivered possession thereof on 27.02.1965, the learned Additional District Judge, Karnal, has returned the following findings:-



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“...Now the only dispute is whether the land measuring 5 bighas 11 biswas comprised in khasra No.1245(1-0) towards East, 1513 (3-1) and 1513 3^{1/4}1(1-0) towards West was allotted to the appellant, and further, whether during the consolidation of holdings suit land measuring 18K, 4 M comprised in Rect. No. 196 Khasra No.23/2(3-4), 24(8-0) and 25(7-0) was allotted to the appellant and he continued in possession of this land till 1976 when respondents No.4 & 5 took forcible possession of the same. PW2 Dharmdev categorically stated that on 20.1.1965 he was working as a reader to R. A. Agrarian and Sh. Balmukand as Naib Tehsildar Agrarian in those days. He next stated that he was conversant with his signatures as he used to receive correspondence from him. He further stated that Form K-6 Ex. PW2/A contained the signatures of Sh. Balmukand, Naib Tehsildar and the contents of this Certificate were similar with the contents of the certificate which was on the summoned file. A perusal of the certificate in Form K6 Ex PW2/A shows that the appellant was granted certificate of allotment on 20.1.1965 with respect to the land measuring 5 bighas 11 Biswas comprised in Khasra No. 1245 (1-0) towards East, 1513(3-1) and 1513/1(1-10) towards West. Therefore, there is no manner of doubt that land measuring 5 bighas 11 biswas was allotted to the appellant on 20.1.1965.

10. The respondents No. 4 to 7 have led evidence of DW3 Rama Nand Patwari Agrarian Department, Karnal to prove that land measuring 711K-16M of Takan Dass was declared surplus and rest of his land was exempted from surplus Pool and land in dispute came under the exempted area. Dw3 Rama Nand stated that Takan Dass was big land owner and died on 15.9.67 and after his death, the land in dispute which was declared surplus was exempted from surplus pool vide order dt. 5.3.81 of the Collector Agrarian, Karnal. In cross-



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examination he stated that the order dated 53.81 did not contain the numbers which were exempted. He further stated that he had not brought the register containing the description of land of Takan Dass which was declared surplus and further the allotment file which he had brought did not contain the khasra numbers of the land of Takan Dass which were declared surplus. He further stated that the land in dispute was not declared surplus. However, he stated that his statement was based on the order dated 5.3.81 whose copy was Ex. DW3/A. He admitted that he had not brought the file in which the land was allotted to the tenants under the Punjab Security of Land Tenure Act. The case of the appellant is that the suit land was allotted to him under the Punjab Security of Land Tenure Act. The statement of DW 3 in cross-examination is contrary to his examination-in-chief. He first stated that the suit land was declared surplus and then it was exempted from the surplus pool vide order dated 5.3.81. However, in cross-examination he stated that the land in dispute was not declared surplus. so, the testimony of DW3 Ramanand Patwari is not believable. Copy of the order Ex. DW3/A dated 5.3.81 of the Collector Agrarian, Karnal on which he had based his evidence shown that the land measuring 906 kanals 5 marlas belonging to Takan Dass was declared surplus and Takan Dass died on 15.9.67 and after his death, his legal representatives moved an application under section 10-A, 10-B of Punjab Security of Land Tenure Act, 1953 and Section 8 of the Haryana Ceiling of Land Holding Act, 1972, On the plea that their father had died and the land of Takan Dass which was declared surplus had not been utilised, so far, and they were small land owners, and as such, benefit should be given to them. The Collector found that the land measuring 711 K-6M which had been allotted to tenants of A&B Classes in the years 1962 and 1965 had already been utilised



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and land measuring 194K - 9M had not been utilised and was lying surplus, accordingly, he exempted land measuring 194K-9M from the surplus Pool. This order does not show in any manner that the suit land had been exempted from the surplus pool. Certificate of allotment Ex. PW2/A show that land measuring 5B-11 Biswas was allotted to the appellant being tenant in the year 1965. The order Ex.PW3/A dated 5.3.81 shows that the land allotted to the tenants in the years 1962 and 1965 was not exempted from the surplus pool. Therefore, the suit land was not exempted from the surplus pool but it continued to be surplus. Hence, there is no question that this land had vested in respondents No. 3 or respondents no. 4 & 5 Ex. P12 copy of Dhatoni Paimash which is at Page 83 of the file shows that the appellant was allotted land as tenant during consolidation of holdings under owner Radha Krishan s/o Takan Dass comprised in khasra No. 196/23/2(3-4), 196/24 (8-0) 196/25(7-0) measuring 18K - 4M.

11. Counsel for the respondents had contended that the appellant had not led satisfactory evidence to prove that he was fitted as tenant in the suit land which was allotted to the land owner during consolidation of holdings in lieu of previous land measuring 5B - 11 Biswas. In my opinion the contention of the learned counsel is not tenable for the various reasons. The trial court under issue No.1 had held that the suit land was allotted in lieu of the previous land held by the appellant measuring 5 bighas 11 biswas. This finding of the trial court had not been challenged by the respondents by way of cross-appeal or cross-objections, so, it cannot be agitated at this stage. Even if it is presumed that the counsel for the respondents is competent to agitate this plea then also the court is not to determine that the suit land was constituted in lieu of land measuring 5 bighas 11 biswas comprised in khasra No. 1245 (1-0) towards East, 1513



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(3-1) and 1513/1(1-10) towards East. The whole of the land of the particular land owner is thrown in the hotch potch and he is allotted during consolidation of holding new numbers in lieu of the old khasra numbers but the tenant is not fitted in the new khasra numbers which are constituted in lieu of old khasra numbers. Under Section 21 of the Act of the East Punjab holding (Consolidation and Prevention and Fragmentation) Act, 1948, the Consolidation Officer after obtaining the advice of land owners of the estate or estates concerned carry out re-partition in accordance with the scheme of the consolidation of holdings confirmed under Section 24. Under Rule 7 (VI) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) 1949 the Consolidation Officer prepares as a statement showing the name of the occupants or holders to whom the new consolidation holdings are allotted for particular fields numbers, shares, class of land, tenure area, assessment and incumbrances if any. Therefore the Consolidation Officer allots particular khasra numbers to a tenant in lieu of the area held by him prior to the consolidation of holdings but he does not allot the khasra numbers which had been constituted in lieu of the old khasra numbers held by a person under his tenancy.

12. Counsel for the respondents has contended that the consolidation of holdings had taken place in the year 1963 1964 and it is not clear as to now the appellant was allotted Land measuring 5 bighas 11 biswas containing old numbers in the year 1965, and as such, the allotment was bogus. In my opinion, the contention of the learned counsel for the respondents is not tenable as there is no evidence that consolidation of holdings was completed in village Jundla in the year 1963-64 Misal Haquiat has not been produced on file to show as to when the consolidation of holdings took place. Therefore, there is nothing to suggest on the file that the



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consolidation of holdings had been completed in the year 1964-64.

In view of my discussion above, the findings of the trial court under issue No.1 that the suit land was not allotted to the appellant is reversed and issue no.1 is decided in favour of the appellant and against the respondents.

13. *Counsel for the respondents has contended that the Civil Court had got no jurisdiction to try the suit, in view of section 5 of the Punjab Tenancy Act and the appellant should have filed the suit in the revenue court if he had been forcibly dispossessed. In my opinion the contention of the learned counsel is not tenable. According to Section 12(iii) of the Haryana Ceiling of Land Holdings Act, 1972 the suit land which forms part of surplus pool had vested in the Haryana Government on the appointed day i.e. 24.1.1972 and as such the dispossession of the appellant from the suit land in the year 1976 by Takan Dass or his transfers could not be termed as dispossession of a tenant by his landlord. Section 45 of the Tenancy Act is only applicable when the dispossession of the tenant had been done by his landlord. So, I hold that the civil court had got jurisdiction to try this suit.*

14. *Counsel for the respondents has next contended that the appellant had claimed the relief that the transfer of the suit land made by respondent No.2 to respondents No.3 and again by respondents No.3 to respondents No.4 & 5 was not binding upon the allotment and tenancy of the appellant and further had claimed relief of possession in the alternative and since there is a period of 3 years prescribed under the limitation Act for filing the suit for declaration, So, the relief of declaration cannot be granted. In my opinion the contention of the learned counsel is not tenable. The appellant had not claimed that the transfers made by respondents No.2 and 3 were*



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illegal. The appellant is only a tenant. He cannot possibly check the transfer of the land by the land owner. His only plea is that the transfer so, made shall not effect his tenancy rights. His main suit is for relief of possession based on possessory title. According to Section 64 of the Limitation Act, 1963 the period prescribed for filing a suit for possession is 12 years from the date of dis-possession. The appellant had categorically stated in his statement that he was dispossessed from the suit land in the year 1976. His statement to this effect had not been challenged in cross-examination. It has been stated in Ganpat Pal Khosla Vs. Kishan Lal and another 1958 P.L.R. 349 that a party should put to his opponents witness so much of his case as concerns that witness and on failure to do so, it would be presumed that the witness's account had been accepted. So, it would be presumed that the respondents admitted that the appellant continued in possession till 1976. Otherwise also copy of the order Ex. D6 dated 31.10.77 of the Commissioner Ambala Division shows that the appellant had filed an application for correction of khasra girdawari against the respondent No. 3,4 and 6. It was held by the commissioner that the appellant continued in cultivation and the Collector had wrongly decided that the appellant was not tenant. He had further held that the appellant was an old tenant in the suit land. The present suit had been filed on 2.11.78. Therefore, it was clearly filed within the period of 12 years, and as such was not time barred.

15. No other point has been urged before me.

16. As a result of my forgoing discussion, the appeal succeeds and is accepted in favour of the appellant and against the respondents and consequently, the judgment and decree of the Senior Sub Judge, Karnal dated 31.7.82 are set aside and the suit of the appellant for declaration that the transfer of Land



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made by respondent no.2 in favour of respondents no.3 and against transfer made by respondent no.3 in favour of respondent no.4 & 5 were not binding upon the allotment and tenancy rights of the appellant and further he is entitled to possession of suit land measuring 18 K.4 M comprised in Rectangle. No. 196 Khasra No. 23/2, 24 & 35 situate in village Jundla is decreed in favour of the appellant and against the respondents with costs through out.”

25. A perusal of the above extracted findings returned by learned Additional District Judge, Karnal would show that the total area measuring 18 kanal - 04 marla, comprised in Khewat No.173, Rectangle No.196, Khasra Nos.23/2(3-4), 24(8-0) and 25(7-0) was allotted to Sh. Sadhu Ram (predecessor of respondents No.4 to 10). It has been further held that Sh. Sadhu Ram continued in possession till 1976; accordingly, the suit for declaration filed by Sh. Sadhu Ram was decreed by holding that the transfer of land made by Takan Dass in favour of Radha Krishan (proforma respondent No.11); and a further transfer made by Radha Krishan (proforma respondent No.11) in favour of Sant Ram (predecessor of petitioners) and Gurvinder Singh, was not binding upon the allotment of Sh. Sadhu Ram (predecessor of respondents No.4 to 10) and that he was entitled to possession of land measuring 18 kanal - 04 marla comprised in Rectangle No.196, Khasra Nos.23/2(3-4), 24(8-0) and 25(7-0) situated at village Jundla. Concededly, the aforesaid judgment and decree dated 05.12.1984 [(Annexure R-1) (attached with reply of respondents No.4 to 10)] has been affirmed not only by this High Court but also by the Hon'ble Supreme Court of India.



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26. In view of the categorical finding returned by the learned Civil Court that the area measuring 18 kanal - 04 marla (as noticed above) was duly allotted to Sh. Sadhu Ram (predecessor-in-interest of respondents No.4 to 10), and even the possession was handed over to him, which continued till the year 1976, it cannot be said by any stretch of imagination that the land in question was not utilized.

27. In my considered view, the learned Collector (Agrarian), Karnal as well as learned Commissioner, Ambala Division, Ambala had erred in law and facts while refusing to issue the certificate of allotment in Form (US-3) in favour of Sh. Sadhu Ram. Accordingly, the order dated 01.03.1988 (Annexure P-10) and order dated 31.01.1989 (Annexure P-12) passed by learned Collector and learned Commissioner respectively, has been rightly set aside by the learned Financial Commissioner, Haryana vide impugned order dated 26.10.1994 (Annexure P-13) and as a consequence thereof, Form (US-3) dated 09.08.1995 (Annexure P-14) has also been rightly issued in favour of Sh. Sadhu Ram.

28. In light of what has been discussed above, I find no merit in this writ petition and the same is accordingly dismissed.

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

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29. Present contempt petition, has been filed by petitioner Harvinder Singh, who is stated to be the General Power of Attorney holder of the writ petitioners in CWP No. 2878-A of 1996.



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30. The aforesaid contempt petition has been filed on the plea that this Court in CWP No. 2878-A of 1996, vide order dated 11.03.1996 directed that *status quo* with respect to possession be maintained. It is stated that during the pendency of the writ petition, the respondent in the contempt petition namely Ramesh Kumar, had sold 03 kanals to Smt. Rekha vide sale deed dated 14.07.2021 (Annexure P-3), therefore, the same amounts to violation of order dated 11.03.1996 passed by this Court.

31. I have considered the aforesaid contention raised in the contempt petition; however, suffice it to say, vide order dated 11.03.1996 passed by this Court in CWP No. 2878-A of 1996, the Court had only directed to maintain status quo regarding possession and no specific direction was issued regarding alienation of the property.

32. Hon'ble Supreme Court in the case of ***Alka Shrirang Chavan and another vs. Hemachandra Rajaram Bhonsale and others, 2026(1) RCR (Civil) 484*** has held that transfer of property during pendency of litigation (*Lis Pendens*) does not annul the conveyance but makes it subservient to the rights determined by the court.

32.1 Further reference can be made to the case of ***Thomson Press (India) Limited vs. Nanak Builders and Investors Private Limited and others, 2013 AIR Supreme Court 2389***, wherein it was observed that the doctrine of *lis pendens* is a doctrine based on the ground that it is necessary for the administration of justice that the decision of a court in a suit should be binding not only on the litigating parties but on those who derive title *pendente lite*.

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33. Keeping in view the above; since the writ petition bearing **CWP No. 2878-A of 1996** has been dismissed; accordingly, I find no merit in the contempt petition bearing **COCP No. 2166-2024** and same also stands dismissed.

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

08.04.2026
ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No