



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

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LPA-147-2026 (O&M)

Date of Decision: 09.03.2026

CAPT. KARAM SINGH SINCE DECEASED THROUGH HIS LR JOGINDER
SINGH

...Appellant

Versus

THE FINANCIAL COMMISSIONER, REVENUE AND SECRETARY TO
GOVT. PUNJAB, REHABILITATION DEPARTMENT AND ORS

...Respondents

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

Present:- Mr. G.S. Nagra, Advocate, for the appellant.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present appeal, the challenge is to the order dated 16.10.2025 passed by the learned Single Judge in CWP-8079-1987, by which, the challenge raised to the utilization of the land by the Government of Punjab so as to allot the same in favour of the private respondents, has been upheld.

2. Learned counsel appearing on behalf of the appellant argues that though, the mortgagor's rights were purchased for the land in question by the appellant on 07.12.1972, the rejection of the plea for redemption of mortgaged land by the authorities concerned is bad, and keeping in view the change of law subsequently, the same plea though dismissed at earlier stage, can be raised again, which fact has not been considered by the learned Single Judge in the correct perspective.

3. We have heard learned counsel for the appellant and have gone through the record with his able assistance.

4. It may be noticed that after purchasing the mortgagor's rights on



07.12.1972, an application was filed by the appellant for redemption of the mortgage land on 22.07.1974, which was rejected by the Assistant Custodian, Punjab, on 29.08.1977 being time barred. Even the revision petition filed against the said order was dismissed on 13.12.1978. No challenge was raised to the said order till a writ petition was filed in the year 1987 challenging such order and that too, after said land was acquired by the Central Government vide notification dated 21.10.1981 (Annexure P-3) and further allotted to private respondents being 'displaced persons' under Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

5. It is a settled principle of law that the action to challenge an order has to be done before it creates third party rights. In the present case, after filing an application for redemption of the mortgage land in the year 1974 which was denied in the year 1977, the revision filed there against was also dismissed on 13.12.1978, no further action was taken by the appellant for a period of approximately 09 years prior to the filing of the writ petition at the hands of the appellant in 1987 and in the meanwhile, said land in question had already been allotted by the State in favour of the private respondents. Once, third party interest had already come into play and the challenge to the orders denying the redemption of the mortgage land was passed 10 years prior to the filing of the writ petition, whether such redemption of mortgaged land could have been allowed, could not have been undertaken, especially when the utilisation of the said land had already been done by the State.

6. Even otherwise, as per the judgement of the Hon'ble Supreme



Court of India in in Civil Appeal No.1852 of 1989 with Civil Appeal No. 4772 of 1989 titled as 'State of Punjab and others vs. Gurdev Singh and Ashok Kumar, decided on 21.08.1991, that every order passed in case, causes prejudice, has to be challenged within a period of three years. The relevant paragraphs of the said judgment are as under:-

4. First of all, to say that the suit is not governed by the law of Limitation runs afoul of our Limitation Act. The statute of limitation was intended to provide a time limit for all suits conceivable. Section 3 of the Limitation Act provides that a suit, appeal or application instituted after the prescribed "period of limitation" must subject to the provisions of Sections 4 to 24 be dismissed although limitation has not been set up as a defence, Section 2(J) defines the expression "period of limitation" to mean the period of limitation prescribed in the Schedule for suit, appeal or application. Section 2(J) also defines, "prescribed period" to mean the period of limitation computed in accordance with the provisions of the Act. The Court's function on the presentation of plaint is simply to examine whether, on the assumed facts the plaintiff is within time. The Court has to find out when the "right to sue" accrued to the plaintiff. If a suit is not covered by any of the specific articles prescribing a period of limitation, it must fail within the residuary article. The purpose of the residuary article is to provide for cases which could not be covered by any other provision in the Limitation Act. The residuary article is applicable to every variety of suits not otherwise provided for. Article 113 (corresponding to Article 120 of the Act 1908) is a residuary article for cases not covered by any other provisions in the Act. It prescribes a period of three years when the right to sue accrues. Under



Article 120 it was six years which has been reduced to three years under Article 113. According to the third column in Article 113, time commences to run when the right to sue accrues. The words "right to sue" ordinarily mean the right to seek relief by means of legal proceedings. Generally, the right to sue accrues only when the 'cause of action arises, that is, the right to prosecute to obtain relief by legal means. The suit must be instituted when the right asserted in the suit is infringed or when there is a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted (See: (i) *Mt. Bole v. Mt. Koklam and Ors.*, AIR 1930 PC 270 and (ii) *Gannon Dunkerley and Co. v. The Union of India*, AIR 1970 SC 1433). 8. It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him. He must approach the Court within the prescribed period of limitation. If the statutory time limit expires the Court cannot give the declaration sought for. 11. The Allahabad High Court in *Jagdish Prasad Mathur and Ors. v. United Provinces Government*, AIR 1956 All 114 has taken the view that a suit for declaration by a dismissed employee on the ground that his dismissal is void, is governed by Article 120 of the Limitation Act. A similar view has been taken by Oudh Chief Court in *Abdul Vakil v. Secretary of State and Anr.*, AIR 1943 Oudh 368. That in our opinion is the correct view to be taken. A suit for declaration that an order of dismissal or termination from service passed against the plaintiff is wrongful, illegal or ultra vires is governed by Article 113 of the Limitation Act. The decision to the contrary taken by the Punjab & Haryana High Court in these and other cases ((i) State of



Punjab v. Ajit Singh,. [1988] 1 SLR 96 and (ii) State of Punjab v. Ram Singh, [1986] 2 SLR 379 is not correct and stands overruled.”

7. Hence, challenging an order passed in the year 1978, in the year 1987 and that too, when the land in question had already been allotted to the private respondents, such belated challenge could not have been undertaken and had rightly been dismissed by the learned Single Judge. It may be noticed that after the order was passed in 1978 denying the redemption of the mortgage, the challenge was made to the allotment in favour of the private respondents. Once, the challenge to redeem the then mortgaged land had already failed and the ownership of such land was never invested in favour of the appellant, challenging the allotment of the land in the favour of the private respondent was rightly rejected. It is only when the said rejection had also attained finality while filing the writ petition, as an abundant caution, an order passed a decade ago was challenged so as to show the *bona fide*, which actions of the appellant have rightly been rejected by the learned Single Judge.

8. No other argument has been raised.

9. In view of the above, no ground is made out for any interference by this Court and the present appeal is accordingly dismissed.

10. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

March 09, 2026
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Whether speaking/reasoned	Yes
Whether reportable	No