2026:PHHC:033082

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

I. **RSA No.1020 of 1997 (O&M)**

**Ladhu (deceased) through his LRs
And Others** **……..Appellants**

Vs.

Rai Singh & Others . . . . Respondents

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II. **RSA No.3561 of 1997 (O&M)**

The State of Haryana & Another **……..Appellants**

Vs.

**Bhuri (deceased) through her LRs
And Others** . . . . Respondents

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III. **CR No.1539 of1997**
Sawarath Ram Kanungo

---------Petitioner

Vs.

Vijay Singh & Others **------Respondents**

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IV. **CR No. 1564-1997**
Balbir

---------Petitioner

Vs.

Vijay Singh & Others **------Respondents**

****

V. **CR No. 1574-1997**
Ladhu & Others

---------Petitioner

Vs.

2026:PHHC:033082

Rai Singh & Others **------Respondents**

VI. **RSA No.1871 of 2006 (O&M)**

Nathu Ram (deceased) through his LRs
And Others **……..Appellants**

Vs.

Amarti Devi and Others . . . . Respondents

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VII. **RSA No.1873 of 2006 (O&M)**

Nathu Ram (deceased) through his LRs
And Others **……..Appellants**

Vs.

Lal Chand and Others . . . . Respondents

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Reserved on: 30.01.2026
Pronounced on: 05.03.2026
Pronounced fully/operative part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. V.K. Jindal, Sr. Advocate with
Mr. Vijayveer and Abhishek Shukla, Advocates
For the Appellants in RSA-1020-1997;
For Petitioners in CR-1539-1997 & CR 1574-1997; and
For Respondents in RSA-3561-1997, RSA-1871-2006 &
RSA-1873-2006

Mr. Gaurav Garg, AAG, Haryana
For Appellants in RSA-3561-1997; and
For Respondents No. 14 & 15 in RSA-1020-1997.

Mr. S.S. Salar and Mr. Hiten Chugh, Advocates
For Appellants in RSA-1871-2006 & RSA-1873-2006;
For Respondents No. 1 to 13 in RSA-1020-1997; and
For Respondents in CR-1539-1997, CR-1564-1997 &
CR 1574-1997.

Mr. Rajesh Kumar Kashyap, Advocate
For Proforma Respondents in RSA-1871-2006 &

RSA-1873-2006.

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DEEPAK GUPTA, J.

This common judgment shall dispose of four Regular Second Appeals and three Civil Revisions, as all the matters arise out of a common factual background and involve overlapping questions of law and fact.

2. For the sake of clarity and convenience, the parties shall be referred to as per their original status before the trial Court. Trial Court record of all the cases was requisitioned and has been perused.

3. It emerges on perusal of the record that Moman son of Sadasukh was a big landowner in village Gindran, Tehsil Dabwali, District Sirsa. Apart from wife Smt. Bhuri, he had four sons namely, Nathu Ram, Mani Ram, Hari Singh and Shiv Prakash.

4.1 This entire lis originates from proceedings initiated under the surplus area law against Moman. The Collector (Surplus Area), Sirsa, vide order dated 30.05.1961 (reviewed on 13.06.1962), declared Moman to be a big landowner. Out of his holding, 106.65 ordinary acres were declared as tenants' permissible area and 179.95 ordinary acres were declared surplus in village Gindran. Thereafter, by order dated 13.06.1962 passed in Case No.439 titled 'State v. Moman', the competent authority treated land, including the portion claimed by the plaintiffs, as surplus/tenants' permissible area.

4.2 Several years later, the Sub-Divisional Officer (Civil), Dabwali, acting as the Allotment Authority, passed orders dated 25.08.1980 and 26.02.1981 allotting parts of the said land to different tenants. Mutations Nos.1160, 1162 and 1161 were sanctioned on 15.10.1980 in favour of the allottees.

Facts leading to RSA No.1020 of 1997 & RSA No.3561 of 1997 :

5.1 ***Plaint Averments :*** Smt. Bhuri and one of the sons Shiv Prakash instituted **Civil Suit No.353 of 1987** ***[later registered as CS N: 418 of 1990/1987]*** claiming that the suit property detailed in head-note of the plaint was owned & possessed by them to the extent of 2/5 share (1/5 share each), by virtue of Mutation No.468 dated 25.04.1954, sanctioned on 28.05.1954 (Ex.P3). According to the plaintiffs, a partition by metes and bounds had already been effected in the year 1954 amongst the co-sharers, including the original landowner Moman Ram and his sons Nathu Ram , Mani Ram, and Hari Singh. Thereafter, during consolidation proceedings, the plaintiffs were allotted specific killa numbers in lieu of the earlier khasra numbers, and they claimed exclusive ownership and possession over the land so allotted. It was pleaded that since the plaintiffs' share had already been separated and specific parcels had been allotted to them, nothing remained joint with the landowner Moman. Consequently, any declaration of surplus area in the case of the landowner could not legally include the land exclusively owned and possessed by the plaintiffs, particularly in the absence of notice and opportunity of hearing as mandated under Rule 6 of the Punjab Security of Land Tenure Rules, 1956.

5.2 Plaintiffs challenged the order dated 13.06.1962 (Ex.P-19) passed by defendant No.2, namely the Sub-Divisional Officer (Civil), Dabwali, acting as Collector Surplus Area/Allotment Authority in Case No.439 titled *'State v. Moman'*, by virtue of which, the share of the plaintiffs in the suit land was declared surplus. They alleged that this order dated 13.06.1962 wrongly reflected transfer of 418 bighas 1 biswa of land by the landowner, which erroneously included the land belonging to the plaintiffs. The plaintiffs pleaded that the said order was passed without issuance of any notice to them and in violation of mandatory provisions of law and, therefore, was null, illegal, void, and not binding upon their rights.

5.3 The plaintiffs also assailed the subsequent orders of allotment dated 25.08.1980 (Ex.P-27) and 26.02.1981 passed by defendant No.2, whereby

portions of the suit land were allotted to third parties without affording any opportunity of hearing to the plaintiffs. These allotment orders, along with the consequential mutations sanctioned on their basis, were also alleged to be non-est, illegal, and liable to be set aside. Consequential relief of permanent injunction was sought to restrain the defendants from forcibly dispossessing the plaintiffs and transferring possession to the allottees.

5.4 Initially, the suit was instituted only against defendant Nos.1 and 2, namely the State of Haryana and the Sub-Divisional Officer (Civil), Dabwali, acting as Collector Surplus Area.

5.5 During the pendency of the suit, defendant Nos.3 to 6, being the legal representatives of Kalu Ram and alleged allottees, were impleaded. It was further averred that defendant Nos.7 to 16, being the legal heirs of Basti and Budha, had forcibly dispossessed the plaintiffs from a portion of the suit land during the pendency of the suit at the instance of defendant Nos.1 and 2. Consequently, these defendants were also impleaded, and by way of amendment, the plaintiffs additionally sought the relief of possession of the suit land.

6.1 ***Stand of Defendants :*** In their written statement, defendant Nos.1 and 2 raised preliminary objections regarding maintainability, limitation, locus standi, estoppel, jurisdiction of the Civil Court and mis-joinder/non-joinder of necessary parties. On merits, it was pleaded that Moman had rightly been declared a big landowner; that notices had been duly issued in the surplus area proceedings; and that the land declared as tenants' permissible area and surplus was lawfully allotted in accordance with statutory provisions. It was further asserted that possession had been delivered to the allottees in the year 1987 and that the impugned orders were legal, valid and binding upon the plaintiffs.

6.2 Defendant Nos.3 to 6 - legal heirs of Kalu Ram, claimed that a portion of the suit land had been allotted to them as tenants' permissible area vide order dated 25.08.1980 and that they had been in cultivating possession

thereof. They also contended that Smt. Bhuri had earlier filed an appeal against an order dated 12.11.1985, which demonstrated her knowledge of the surplus proceedings.

6.3 Defendant Nos.7 to 11 - legal heirs of Basti son of Gumana, pleaded that land described in their written statement had been allotted to their predecessor, who was in cultivating possession, and that mutation No.1162 (Ex.P-7) had been sanctioned in his favour. They further relied upon orders dated 22.07.1987 and 25.08.1987 (Ex.P-4) to support delivery of possession.

6.4 Similarly, defendant Nos.12 to 16 - legal heirs of Buddha, asserted that their predecessor was a tenant in cultivating possession and that land had been allotted to him pursuant to the surplus proceedings, followed by sanction of mutation No.1160 dated 15.10.1980 (Ex.P-9). They adopted substantially the same pleas as raised by the other allottees, asserting validity of the surplus and allotment orders and disputing the plaintiffs' exclusive ownership or possession.

7. Thus, the core controversy in this lis is about the validity of the surplus area declaration dated 13.06.1962, the consequential allotment orders passed in 1980–81, the question of notice to the plaintiffs, and the effect of the alleged prior partition and consolidation proceedings on the competence of the authorities to treat the land as part of the surplus pool.

8. ***Findings of Courts Below :*** After framing of necessary issues, the parties led both oral and documentary evidence in support of their respective stands. Upon appreciation thereof, the learned Trial Court of Sub-Judge 1st Class at Dabwali, vide judgment & decree dated 12.08.1993, decreed the suit in favour of the plaintiffs.

9.1 Aggrieved against the said decree, two separate appeals were preferred before the first Appellate Court—one by defendant Nos.3 to 14, i.e. the

allottee-defendants, and the other by defendant Nos.1 and 2, namely the State of Haryana and the Sub-Divisional Officer (Civil), Dabwali, acting as Collector Surplus Area/Allotment Authority.

9.2 The plaintiffs, on the other hand, filed cross-objections assailing certain findings returned by the trial Court on some of issues.

9.3 The first appellate court of learned Additional District Judge, Sirsa, vide judgment dated 01.03.1997, dismissed both the appeals filed by the State authorities as well as the allottees, while accepted the cross-objections preferred by the plaintiffs.

10. The judgment of the first Appellate Court has given rise to two of the present Regular Second Appeals. **RSA No.1020 of 1997** has been filed by defendant Nos.3 to 16, i.e. the allottee-defendants; whereas **RSA No.3561 of 1997** has been preferred by defendant Nos.1 and 2, namely the State of Haryana and the SDO (Civil), Dabwali, in his capacity as Collector Surplus Area/Allotment Authority/Prescribed Authority.

CR-1539, 1564 & 1574 of 1997 :

11. Parallel to the adjudication of the above suit, certain proceedings under Order XXXIX Rule 2A CPC also ensued. During the pendency of the suit, the trial Court, vide order dated 15.06.1987, restrained defendant Nos.1 and 2 from dispossessing the plaintiffs from the suit land till 20.08.1987, which interim protection was extended from time to time. Despite the subsistence of the said injunction, the plaintiffs were subsequently dispossessed and possession was delivered to the allottees pursuant to orders of the revenue authorities. It was alleged by the plaintiffs that Sawarath Ram Kanungo (Petitioner in CR-1539-1997), had effected delivery of possession in compliance of the directions issued by Ramesh Kajal, Tehsildar, Dabwali to the allottees.

12. On the plaintiffs' application under Order XXXIX Rule 2A CPC alleging willful disobedience of the stay order, the trial Court of Sub-Judge 1st Class vide order dated 24.12.1992, held the concerned revenue officials and certain allottee-defendants to be guilty of violation and imposed varying sentences upon the Kanungo, the Tehsildar and the concerned allottees. The said order was affirmed in appeal by the learned Additional District Judge, Sirsa, on 01.04.1997.

13. These concurrent orders under Order XXXIX Rule 2A CPC have led to the filing of three Civil Revisions—CR No.1564 of 1997 by Balbir, CR No.1574 of 1997 by the allottee-defendants including Ladhu Ram and others, and CR No.1539 of 1997 by Sawarath Ram, Kanungo, challenging the findings holding them guilty of violation of the injunction order and the consequential imposition of sentences.

14. Thus, the present batch comprises two Regular Second Appeals directed against the judgments on merits in the suit; and three Civil Revisions arising out of the ancillary proceedings under Order XXXIX Rule 2A CPC.

Facts leading to RSA No.1871 of 2006 :

15. During the pendency of the earlier round of litigation, another suit being **Civil Suit No.280 of 1998** came to be instituted by as many as eighteen plaintiffs, all of whom are the legal heirs of Moman. The plaintiffs comprised his four sons Nathu Ram, Mani Ram, Hari Singh and Shiv Prakash, and their respective sons. The suit related specifically to land comprised in old Khasra No.18 measuring 22 Bigha 14 Biswa.

16. The foundation of the claim was that the said land was ancestral and coparcenary property in the hands of Moman and his sons. It was pleaded that Moman had inherited the property from his father Sada Sukh and that the inheritance stood reflected in Mutation No.80 dated 04.10.1900. According to the plaintiffs, earlier, on 05.11.1949 vide Mutation No.407, Moman had retained

1/6th share for himself, while 5/6th share, i.e. 1/5th share each, had been given to his four sons and his wife Smt. Bhuri. Since then, they asserted, each branch had been in possession of its respective share as owner, being governed by the Mitakshara School of Hindu Law.

17.1 The suit was filed against three defendants, namely the widow Amarti Devi, and two sons of Hetram namely, Mahabir & Balaki. The plaintiffs alleged that defendant No.1, Amarti Devi, had earlier filed a suit for correction of Khasra Girdawari entries from Rabi 1953 against Hetram without impleading the present plaintiffs, and that a decree dated 03.08.1964 had been passed, whereby the entries from Rabi 1953 were corrected in her favour. It was contended that up to 1955, the suit land remained in self-cultivation of the landowners and that Hetram, predecessor of the defendants, entered into possession only in Kharif 1955 as a tenant on payment of 1/3rd batai. Amarti Devi, according to the plaintiffs, never remained a tenant under them and therefore, the decree in her favour was collusive, null and void.

17.2 The plaintiffs further pleaded that defendant Mahabir had land in excess of the permissible area, and was himself a big landowner, and thus was ineligible to purchase land under Section 18 of the Punjab Security of Land Tenure Act, 1953. It was also asserted that defendant No.1, not being a tenant, could not lawfully purchase the land and that the order permitting such purchase was in violation of the mandatory provisions of Section 18. They contended that though an appeal had been filed before the Collector, the same was dismissed without proper consideration of the family arrangement reflected in Mutation No.407 of 1949. The order dated 30.05.1961, later reviewed on 13.06.1962, treated the entire holding as that of Moman alone. According to the plaintiffs, those orders stood effectively undermined by the judgment dated 01.03.1997 *[in the earlier litigation – CS – 353-C-1987]* passed by the learned Additional District Judge, Sirsa, whereby Moman, his sons and widow were held to be small landowners. On that premise, it was argued that the order permit-

ting purchase of the land as permissible area was a nullity and liable to be set aside.

18. The defendants, in their written statement, controverted the claim in toto. They denied that the suit land was ancestral coparcenary property as alleged. It was pleaded that the Collector (Surplus Area) had not recognized the transfers effected by Moman in favour of his wife and sons as valid under the 1953 Act. The order passed by the competent authority under Section 18 of the Act permitting purchase was asserted to be legal and valid. It was further contended that the judgment dated 01.03.1997 did not set aside the purchase order or the decrees in favour of the defendants, and that the land now in dispute was not the subject matter of that earlier judgment. Consequently, the defendants claimed that they were not bound by the findings recorded therein and prayed for dismissal of the suit.

19. On the pleadings of the parties, the trial Court framed the necessary issues. The parties led oral as well as documentary evidence. Upon appreciation of the material on record, the learned trial Court dismissed the suit vide judgment & decree dated 19.02.2003. The appeal preferred by Nathu Ram and others was also dismissed by the learned Additional District Judge, Sirsa, on 15.04.2005, affirming the findings of the trial Court.

20. These concurrent findings of fact have culminated in the filing of RSA No.1871 of 2006 by Nathu Ram and others, being the sons and grandsons of Moman.

Facts leading to RSA No. 1873 of 2006:

21. On similar lines, the very same set of plaintiffs, namely the sons and grandsons of Moman, instituted another suit being **Civil Suit No.522-C of 1998** against eight defendants, namely Lal Chand and others, who are the legal heirs of one Jee Sukh. This suit pertained to land comprised in old Khasra No.32 measuring 26 Bigha 1 Biswa.

22.1 The case set up was substantially akin to that pleaded in Civil Suit No.280 of 1998. The plaintiffs alleged that the defendants had entered into possession of the old Khasra No.32 in Kharif 1958 and that, upon consolidation, land measuring 130 Kanal 03 Marla had been allotted in lieu thereof. It was further pleaded that purchase had been allowed in favour of the defendants in respect of 6 Kanal 13 Marla of land and that such purchase was null, illegal and void. The principal ground urged was that the foundational orders dated 30.05.1961, as reviewed on 13.06.1962, concerning the land of Moman, stood set aside by the judgment and decree dated 01.03.1997 *[in the earlier litigation – CS – 353-C-1987]* passed by the learned Additional District Judge, Sirsa, and therefore, any consequential purchase founded thereon could not survive.

22.2 On this premise, the plaintiffs sought a decree of declaration to the effect that they were owners of the suit land and that the defendants were merely tenants thereon on payment of 1/3rd batai.

23. The defendants, while contesting the suit, pleaded that although the orders dated 30.05.1961 and 13.06.1962 had been challenged in earlier proceedings culminating in the judgment dated 01.03.1997, the order dated 29.09.1966 passed by the Assistant Collector 1st Grade, Dabwali, in favour of the defendants had remained in force and had already been acted upon. It was asserted that the plaintiffs, despite being aware of the said order, had deliberately not challenged it nor impleaded the present defendants in the earlier litigation. Consequently, the defendants contended that the judgment dated 01.03.1997 was not binding upon them, as they were not parties thereto.

24. On the strength of the above pleas, the defendants moved an application under Order VII Rule 11 CPC for rejection of the plaint, also contending that the suit was barred by limitation. Preliminary issues were framed accordingly.

25. After considering the material placed on record, the learned Civil Judge (Senior Division), Sirsa, vide judgment dated 13.11.2003, allowed the application under Order VII Rule 11 CPC and rejected the plaint. The appeal preferred by the plaintiffs was dismissed by the learned Additional District Judge, Sirsa, on 06.12.2005, affirming the order of rejection.

26. These concurrent findings have culminated in the filing of RSA No.1873 of 2006 by Nathu Ram and others, being the sons and grandsons of Moman.

27. It is in this backdrop that four Regular Second Appeals, and three Civil Revisions, arising out of the interconnected proceedings noticed above, are now before this Court for adjudication.

28. The foundational ground of challenge in Civil Suit No.280 of 1998, which has culminated in RSA No.1871 of 2006 concerning old Khasra No.18, as well as in Civil Suit No.522-C of 1998, giving rise to RSA No.1873 of 2006 concerning old Khasra No.32, is the judgment & decree dated 12.08.1993 passed in Civil Suit No.353 of 1987 *[later registered as CS N: 418 of 1990/1987]* by the trial Court and affirmed on 01.03.1997 by the learned Additional District Judge, Sirsa. By virtue of the said judgments, the orders dated 30.05.1961, as reviewed on 13.06.1962 by the SDO (Civil)/Surplus Area Authority, declaring the land of Moman as surplus, were set aside. The plaintiffs in both subsequent suits have sought to build their entire case upon the said adjudication.

29. Likewise, Civil Revision Nos.1539 of 1997, 1564 of 1997 and 1574 of 1997, preferred by Sawarath Ram Kanungo; Balbir; and Ladhu Ram and others respectively, arise out of orders dated 24.12.1992 passed by the trial Court under Order XXXIX Rule 2A CPC, which were affirmed on 01.04.1997 by the learned Additional District Judge, Sirsa. Those proceedings stem from the alleged violation of the interim injunction granted during the pendency of the suit that ultimately culminated in the appellate judgment dated 01.03.1997.

30. On the other hand, RSA No.1020 of 1997, filed by the allottee-defendants, and RSA No.3561 of 1997, preferred by the State authorities, directly assail the very same judgment & decree dated 01.03.1997 of the learned Additional District Judge, Sirsa, affirming the judgment & decree dated 12.08.1993 passed by the trial Court.

31. It is, therefore, evident that the fate of RSA No.1020 of 1997 and RSA No.3561 of 1997, which challenge the legality of the core judgment dated 12.08.1993 as affirmed on 01.03.1997, will have a decisive bearing upon the remaining five matters. If the said judgment & decree are found unsustainable, the very substratum of Civil Suit Nos.280 of 1998, and 522-C of 1998, and consequently RSA Nos.1871 of 2006 and 1873 of 2006 arising therefrom, would be rendered untenable. The proceedings under Order XXXIX Rule 2A CPC, forming subject matter of the three Civil Revisions, would likewise lose their foundation.

32. In that view of the matter, it becomes necessary to first examine RSA No.1020 of 1997 and RSA No.3561 of 1997, as they strike at the root of the controversy.

Consideration by the Court

33. Learned senior counsel appearing for the appellants–allottees, supported by learned AAG, Haryana on behalf of the State authorities, has assailed the judgments of the Courts below primarily on the ground that the entire foundation of the suit was misconceived and legally untenable. It is submitted that the Courts below ignored the finality attached to the surplus area proceedings and the statutory bar of civil jurisdiction.

Contentions of the Appellants (Allottees & State) :

34. Learned senior counsel appearing for the appellants–allottees, duly supported by learned AAG, Haryana, has vehemently contended that Moman, predecessor-in-interest of the contesting respondents, was admittedly a big landowner under the Punjab Security of Land Tenure Act, 1953. It is submit-

ted that his surplus area case was first decided by the Collector (Surplus Area), Dabwali, on 30.05.1961 vide order Ex.P46. It is specifically pointed out that Moman had appeared during proceedings on 23.05.1961 and had even made a detailed statement, as is reflected from the order. By way of this order, transfer of 418 Bigha 1 Biswa made by landowner by way of Gift was ignored, as this parting away was after the commencement of 1953 Act. As per the order, Moman was allowed a permissible area of 30 standard acres, equivalent to 96.38 ordinary acres, in view of the decision of the Financial Commissioner in '*Mahiya and others v. Dalip and others' (1960 PLJ 40).* Consequently, 165.34 ordinary acres (equivalent to 51.67 standard acres) were declared surplus and 106.65 ordinary acres were declared as tenants' permissible area (TPA).

35. It is pointed out that subsequently, in light of the judgment rendered by a Division Bench of this Court in *Nathu v. State of Punjab (1961 PLJ 74),* the Collector reviewed the earlier determination and vide a fresh order dated 13.06.1962 (Ex.P19), Moman was held entitled to a permissible area of 60 ordinary acres in terms of Section 2(3) of the 1953 Act. In the revised order, 106.65 acres were maintained as tenants' permissible area, while 179.95 acres were declared surplus.

36. It has further been pointed out that the wife and sons of Moman preferred an appeal against the initial order dated 30.05.1961 before the Commissioner, contending that land transferred to them by way of gift on 20.05.1954 could not be clubbed with the holding of Moman and, therefore, ought to have been excluded from computation of surplus area. The Commissioner, however, dismissed the appeal vide order dated 21.08.1962 (Ex.D36), holding that the gift, having been made after the appointed date i.e. 15.04.1953, was liable to be ignored under Section 10-A(b) of the 1953 Act.

37. Aggrieved thereby, the wife and sons of Moman filed Revision Petition (ROR No.110 of 1962-63) before the Financial Commissioner, which too

was dismissed on 11.01.1963 (Ex.D37). Still dissatisfied, the sons of Moman invoked the writ jurisdiction of this Court by filing CWP No.640 of 1963 seeking quashing of all the aforesaid orders. The writ petition was dismissed on 03.01.1967 by this High Court in a judgment reported as ***Nathu Ram & Others vs. Punjab State & Others, 1967 PLJ 310.*** Thus, the determination of surplus area and tenants' permissible area attained finality.

38. It is the further contention of learned senior counsel that the land so declared surplus, as well as the tenants' permissible area determined under the orders dated 30.05.1961 and 13.06.1962, vested in the State of Haryana by virtue of Section 12(3) of the Haryana Ceiling on Land Holdings Act, 1972 (with effect from the appointed date). Thereafter, such land became available for utilization in accordance with Paragraphs 4 and 7 of the Haryana Utilization of Surplus and Other Areas Scheme, 1976.

39. Arguing for the appellants further, it is urged that appellants were tenants in cultivating possession of the land prior to 15.04.1953 and the area under their tenancy having been declared as tenants' permissible area in the surplus proceedings, they fell within Category 'A' as defined under Paragraph 4 of the 1976 Scheme. Consequently, they were entitled to allotment in terms of Paragraph 7 of the said Scheme. It is on this basis that allotment orders were passed in their favour by the competent Allotment Authority vide order dated 25.08.1980 (Ex.P27). The specific khasra numbers comprising the land allotted to the appellants are detailed in Annexure 'Kha' appended to the allotment order dated 25.08.1980 (Ex.P27).

40. Pointing to the record, it is urged that Smt. Bhuri, widow of Moman, along with her son Mani Ram had preferred an appeal against the above said allotment order before the Collector. The appeal was dismissed vide order dated 08.02.1983 (Ex.D4). Admittedly, the said order attained finality and was never challenged thereafter.

41. Learned senior counsel for the appellants - allottees has then traced the subsequent proceedings. After culmination of the surplus area determination and allotment process, Smt. Bhuri and Mani Ram moved an application before the Collector seeking exclusion of the land in dispute from the surplus pool under Section 8(1)(a) of the Haryana Ceiling Act, 1972, on the plea that the land had been transferred to them by Moman by way of a gift prior to the relevant cut-off date. The Collector forwarded the matter to the Prescribed Authority, who dismissed the application vide order dated 27.04.1984 (Ex.D5). The appeal thereagainst was dismissed by the Collector on 27.05.1985 (Ex.D6), and a further revision (ROR No.227 of 1984–85) was rejected by the Commissioner on 23.05.1986. These orders also attained finality.

42. It is contended that having failed in the surplus area proceedings, the appellate and revisional hierarchy, and in the subsequent proceedings for exclusion under the Haryana Act, Smt. Bhuri and her son Shiv Prakash instituted the present lis i.e., Civil Suit No.418 of 1987 (earlier numbered as Civil Suit No.353-C of 1987), assailing the surplus area orders dated 30.05.1961 and 13.06.1962 as well as the allotment orders dated 25.08.1980 and 26.02.1981.

43. A serious grievance has been raised by learned senior counsel that the plaintiffs neither disclosed nor challenged the successive appellate and revisional orders passed against them. It is pointed out that even the dismissal of CWP No.640 of 1963 by this Court on 03.01.1967 was not brought to the notice of the civil Court. Emphasis has also been laid on the order dated 13.06.1962 (Ex.P19), whereby the Collector reviewed the earlier order dated 30.05.1961 and specifically recorded that the gift of 418 Bigha 1 Biswa made by Moman in favour of his wife and sons was to be ignored, having been effected after the commencement of the 1953 Act. The order further records that notice was issued to Moman and upon his refusal to accept it, the notice was affixed at his residence and, in his absence, proceedings were taken ex parte.

44. It is submitted that during his lifetime, Moman never challenged the surplus area determination. The challenge mounted by his wife and sons was dismissed by the Commissioner and thereafter by the Financial Commissioner, and ultimately by this Court in writ jurisdiction. Despite this, the subsequent civil suit proceeded without assailing those higher orders.

45. On the legal plane, learned senior counsel has invoked the doctrine of merger, contending that once the original surplus area orders dated 30.05.1961 and 13.06.1962 were carried in appeal and revision, and were affirmed by the Commissioner and Financial Commissioner, the original orders merged in the higher orders and lost their independent identity. Consequently, unless the appellate and revisional orders were specifically challenged, the foundational orders could not be reopened in an independent civil suit. The same principle, it is urged, applies to the allotment orders dated 25.08.1980 and 26.02.1981, which stood affirmed by the Collector on 08.12.1983 (Ex.D4) and thereby merged in the appellate order.

46. In support of the aforesaid propositions, reliance has been placed upon judgments reported in ***Amarjit Singh vs. Financial Commissioner, 1978 PLJ 228 (DB); Dayawanti vs. Yadvindra Public School, 1996 PLJ 59 (FB); Lucky Home Group Housing Society Ltd. Vs. Registrar, Coop. Societies, 1997 (1) RCR (Civil) 188; Savitri Vs. State of Haryana, 1998 (2) RCR (Civil) 510; and Chandi Prasad Vs. Jagdish Prasad, 2005 (2) RCR (Civil) 737 (SC),*** to contend that the decrees passed by the Courts below, ignoring the binding effect of the earlier adjudications and the doctrine of merger, are legally unsustainable.

47. Learned senior counsel for the appellants has further contended that the very institution of the civil suit was barred for want of jurisdiction. It is submitted that the surplus area orders dated 30.05.1961 and 13.06.1962 were passed under the Punjab Security of Land Tenure Act, 1953. Against such orders, a statutory appeal was available under Section 24 of the 1953 Act, read with

Sections 80 and 84 of the Punjab Tenancy Act, 1887, followed by a revisional remedy. Section 25 of the 1953 Act expressly barred the jurisdiction of the Civil Court in respect of matters, which the authorities under the Act were competent to determine.

48. Similarly, the allotment orders dated 25.08.1980 and 26.02.1981 were passed under the Haryana Utilization of Surplus and Other Areas Scheme, 1976, framed under Section 18 of the Haryana Ceiling on Land Holdings Act, 1972. Paragraph 13 of the Scheme provides the mechanism for redressal, and Section 26 of the Haryana Act expressly excludes the jurisdiction of the Civil Court in matters arising under the Act and the Scheme. In support of the plea of bar of civil jurisdiction, reliance has been placed upon Supreme Court decisions ***'Azad Vs. Dharampal', Law Finder Doc Id # 28949;*** and ***Devender Singh Vs. State of Haryana, 2006 AIR SC 2850.***

49. Assailing the observations & findings of the Courts below, to set aside the surplus area orders, on the ground that no notice had been issued to the wife and sons of Moman prior to passing the orders of 1961 and 1962, It is argued that the surplus area case was required to be determined with reference to the holding of the landowner as on 15.04.1953, the date on which the Punjab Act, 1953 came into force. On that date, Moman was alive and was the recorded landowner. He had been duly served and even appeared and made statement as recorded in the order dated 30.05.1961 (Ex.P46). He was duly served even at the time of review order as evident from order dated 13.06.1962 (Ex.P19). The alleged transfers in favour of his wife and sons were effected on 25.04.1954, i.e. after the appointed date. Under the statutory scheme, particularly Section 10-A(c) of the 1953 Act, transfers made after 15.04.1953 were liable to be ignored for purposes of surplus determination. If such post-appointed date transfers were to be disregarded, the transferees could not claim independent recognition of rights in the surplus proceedings. Reliance in this regard has been placed upon judgments reported in ***Karam Singh vs. State of Punjab, 1968 PLJ 190***

(DB); and The Kalianwali Co-operative Farming Society vs. State of Punjab, 1969 PLJ 258 (FB).

50. It is further submitted that once the area declared surplus under the Punjab Act vested in the State Government under Section 12(3) of the Haryana Act of 1972, the State became absolute owner thereof and the landowner stood divested of all rights. Consequently, neither the landowner nor his heirs retained any enforceable interest in the surplus land so as to require notice in subsequent allotment proceedings. The State, having absolute authority to utilize the surplus area in accordance with the Utilization Scheme, was not obliged to issue notice of allotment to the heirs of Moman. In support of this proposition, reliance has been placed upon ***Surinder Nath Dewan Vs. State of Haryana, (1994) 1 SCR 186 (SC);*** and ***Smt. Radha Bai Vs. State of Haryana***, ***Law Finder Doc Id # 35487***.

51. The plea of limitation has also been emphatically raised by Ld. Sr. Advocate for appellants. It is pointed out that the surplus area orders were passed in 1961 and 1962, and the allotment orders in 1980 and 1981. However, the present suit was instituted only on 15.06.1987. It is contended that even if the orders were assumed to be void, they were required to be challenged within the prescribed period of limitation. Article 100 of the Limitation Act has been invoked, along with the principle that a time-barred suit must be dismissed, even if limitation is not specifically pleaded, as mandated under Section 3 of the Limitation Act. Reliance has been placed upon ***State of Punjab Vs. Gurdev Singh, AIR 1992 SC 111, Prem Singh Vs. Birbal, 2006 (3) RCR (Civil) 381 (SC);*** and ***Kamlesh Babu Vs. Lajpat Rai Sharma, 2008 (12) SCC 577 (SC).***

52. It has been pointed out that the Courts below treated the suit as being within limitation by computing time from the order dated 27.05.1985 (Ex.D6), whereby the appeal against dismissal of the exemption application was rejected. However, the application for exemption from the surplus pool, dis-

missed initially on 27.04.1984 (Ex.D5) and thereafter appeal thereagainst was dismissed on 27.05.1985 (Ex.D6). The dismissal of such application could not revive or extend the limitation period for challenging the surplus area orders of 1961–62 or the allotment orders of 1980–81.

53. It has further been pointed out by learned senior counsel that the order dated 27.05.1985 (Ex.D6), passed by the Collector in appeal arising out of the exemption proceedings, was never challenged by the plaintiffs. In such circumstances, the period of limitation for questioning the original surplus area orders dated 30.05.1961 and 13.06.1962, or the allotment orders dated 25.08.1980 and 26.02.1981, could not be computed from 27.05.1985. At best, a challenge could have been laid to the order dated 27.05.1985 itself. However, that order was not impugned in the suit. The inevitable consequence is that the suit, insofar as it sought to assail the surplus and allotment orders, was hopelessly barred by limitation.

54. Concluding his submissions, it is urged that the findings recorded by the Courts below on jurisdiction, notice and limitation are legally untenable and call for interference.

Contentions of the Respondents (Plaintiffs) :

55. *Per contra,* learned counsel appearing for the respondents–plaintiffs has supported the judgments of the Courts below.

56. It is contended that the land in dispute had already been transferred by Moman in favour of his wife and sons prior to the surplus proceedings and that the plaintiffs had become owners in possession of their respective shares by virtue of Mutation No.468 dated 25.04.1954.

57. According to the respondents, the plaintiffs' shares had already been separated through partition and consolidation proceedings and therefore,

the land in their possession could not have been included in the surplus area of Moman.

58. Learned counsel further submits that no notice was ever issued to the plaintiffs before declaring the land as surplus. Since the order dated 13.06.1962 was passed without affording them an opportunity of hearing, the same was void and liable to be ignored.

59. It is also contended that the allotment orders of 1980 and 1981 were passed without notice to the plaintiffs and without verifying the true ownership of the land.

60. On this basis, learned counsel argues that the Courts below rightly held that the surplus area orders and subsequent allotment proceedings were illegal and not binding upon the plaintiffs.

61. However, when this court queried Ld. Counsel for the respondents regarding decision of this court in writ petition 640 of 1963, filed by sons of Moman, which was dismissed on 03.01.1967 by this High Court in a judgment reported as ***Nathu Ram & Others vs. Punjab State & Others, 1967 PLJ 310,*** which fact was concealed from the court leading to passing of the concurrent orders by courts below, Ld. Counsel submitted that he was not made aware about the same by his party.

Findings of this Court

62. This Court has considered the rival submissions advanced on behalf of the parties and has carefully examined the record.

63. The primary question, which arises for consideration is whether the surplus area orders dated 30.05.1961 and 13.06.1962 could be challenged in a civil suit instituted in the year 1987, particularly when those orders had already been affirmed in appeal, revision and even in writ proceedings before this Court.

64. The record clearly reveals that the surplus area proceedings culminated not only in orders of the Collector but were also examined by the Commissioner and the Financial Commissioner, and thereafter by this Court in writ jurisdiction. Once the matter had attained finality through the statutory hierarchy and judicial scrutiny, the same could not be reopened by way of a civil suit.

65. The contention raised on behalf of the respondents that the transfer made by Moman in favour of his wife and sons was liable to exemption under Section 8(1)(a) of the Haryana Act is equally untenable. In the subsequent suits filed in 1998 *[CS No. 522-C of 1998-2002; and CS No. 280 of 1998 giving rise to RSA 1871 & 1873 of 2006]*, an attempt was made to suggest that the gift had in fact been effected in 1949 and only the mutation was sanctioned in 1954.

66. The record belies the above submission. Mutation No.468 dated 27.05.1954 (Ex.P3), relied upon by the plaintiffs themselves, refers to an alleged oral gift (Tamliq Malqiat Jubani) dated 25.05.1954, whereby Moman is stated to have transferred 418 Bigha 1 Biswa of land in favour of his wife and four sons. There is no reference whatsoever to any transfer in the year 1949. Not only this, even CWP No. 640 of 1963 was filed by sons of Moman assailing the surplus orders of 30.05.1961 and the orders passed by appellate and revisional authority on the plea of 1949 Gift, but this court had dismissed the writ petition on 03.01.1967. Thus, the gift must be taken to have been made in 1954, i.e. after the appointed date of 15.04.1953.

67. Still further, once it is undisputed that the appellants–allottees were in cultivating possession of the land as tenants prior to 15.04.1953 and that the land was declared as tenants' permissible area in the surplus proceedings dated 30.05.1961 as reviewed on 13.06.1962, the legal position is well settled that such tenancy area is deemed to have been utilized from the date of its declaration as TPA. The subsequent allotment under the Utilization Scheme is merely a formal step to regulate compensation and confer proprietary rights.

The land having already stood utilized by virtue of the surplus declaration, no benefit under Section 8(1)(a) of the Haryana Act could enure to the landowners. Judicial precedents of the Hon'ble Supreme Court and this Court have consistently affirmed this position.

68. Even otherwise, a transferee of surplus area from a big landowner after 15.04.1953 cannot claim restoration of possession from tenants, who have been settled in accordance with law by invoking Section 8(1)(a). The exemption plea, in any case, cannot be entertained in the present proceedings. The exemption application had been dismissed on 27.04.1984 (Ex.D5) and the appeal thereagainst rejected on 27.05.1985 (Ex.D6). Those orders were never challenged. The only orders assailed in the suit were the surplus area orders of 1961–62 and the allotment orders of 1980–81, all of which had long since attained finality. The issue of exemption was, therefore, wholly extraneous to the scope of the suit.

69. Moreover, the challenge raised by the plaintiffs was hopelessly belated. The surplus area orders were passed in 1961–62 and the allotment orders in 1980–81, whereas the suit was instituted only in 1987. The Courts below, in treating the suit as being within limitation by computing time from the order dated 27.05.1985, committed a patent error.

70. Viewed from any angle, whether of jurisdiction, finality, limitation, merger, or substantive entitlement, the judgments & decrees dated 12.08.1993 passed by the trial Court and 01.03.1997 passed by the learned Additional District Judge, Sirsa, cannot be sustained. The same are accordingly set aside and Civil Suit No.353-C of 1987 (also referred to as Civil Suit No.418 of 1987) filed by Smt. Bhuri and her son Shiv Prakash stands dismissed with costs.

71. Consequently, RSA No.1020 of 1997 filed by defendant Nos.3 to 16 (allottees), and RSA No.3561 of 1997 filed by defendant Nos.1 and 2 (State authorities) are allowed.

72. As a necessary corollary, RSA No.1871 of 2006, and RSA No.1873 of 2006, preferred by the sons and grandsons of Moman in respect of khasra Nos.18 and 32 respectively, are hereby dismissed.

73. Since the allotment orders and the declaration of tenants' permissible area in favour of the allottees have been upheld as legal and valid, the foundation of the proceedings under Order XXXIX Rule 2A CPC disappears. The order dated 01.03.1997 affirming the trial Court's decree having been set aside, the application under Order XXXIX Rule 2A CPC filed by Smt. Bhuri and her son cannot survive. Accordingly, Civil Revision Nos.1539 of 1997, 1564 of 1997 and 1574 of 1997 are allowed.

74. All seven matters stand disposed of in the above terms.

(DEEPAK GUPTA)
JUDGE

05.03.2026
Neetika Tuteja

Whether speaking/reasoned? Yes
Whether reportable? Yes

Uploaded on.: 06.03.2026