

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

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**RSA-250-1983 (O&M)
Reserved on : 06.02.2025
Pronounced on : 06.05.2025**

State of Punjab

..... Appellant

versus

Chanan Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Malkiat Singh, DAG, Punjab.

Mr. Amit Jain, Senior Advocate with
Mr. Anupam Mathur, Advocate
for respondents No.2 to 5.

Mr. K.A.P. Sinha, Chief Secretary to Govt. of Punjab
(Through V.C.).

PANKAJ JAIN, J.

1. Defendant-State is in second appeal. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellant as defendant and respondent as plaintiff.
2. Plaintiff filed suit seeking decree of declaration to the effect that the land mentioned in the plaint (hereinafter referred to as the 'suit land') is of religious and charitable nature and is owned by Dam Dama Sahib Una, a Sikh Shrine, controlled and managed by Baba Madhusudan Singh.
3. Plaintiffs claim to be the worshipers of the Shrine. As per plaintiffs Shri Kala Dhari of Bedi family (descendant of Baba Guru Nanak) was a spiritual saint. He established Gaddi and a Gurdwara at Dam Dama Sahib Una. His 3rd descendant Shri Sahib ji established



religious Shrine at Killa Jawahar Singh Wala at Gujranwala (Pakistan). The land at Killa Jawahar Singh Wala was donated to the Shrine by the followers. Income and profits from land used to be utilized for religious and charitable purposes. Land at Killa Jawahar Singh Wala at Gujranwala was also recorded in the revenue record as ownership of religious trust namely Dam Dama Sahib at Una. The same came under management of Baba Davinder Singh-the 7th descendant. On partition of the country in the year 1947, total land measuring 1440 kanals, 08 marlas was allotted to Bedi family in village Khiala Bilanda, District Hoshiarpur in lieu of the land left in Pakistan as 'a displaced person'. This land included land in lieu of holding of religious trust namely, Dam Dama Sahib Shrine at Killa Jawahar Singh Wala (Gujranwala). The allotment was wrongly made in the name of Davinder Singh in his personal capacity instead of religious trust. The same continued to be managed and controlled by Baba Davinder Singh and later by Baba Madhusudan Singh-the 8th descendant as Gaddi Nashin of the Shrine. The land was declared surplus deeming it to be land of Baba Davinder Singh even though he was only managing it. His successor Baba Madhusudan Singh was also managing the land and was not owner thereof.

4. The plaintiffs claimed that the property at village Khiala Bilanda which was allotted in lieu of land owned by Shrine in Killa Jawahar Singh Wala (Gujranwala) could not have been declared surplus. Plaintiffs also questioned alienation of land made by Baba Madhusudan Singh as owner of the land.



5. Suit was contested by the defendants. Defendants No.1 to 3 filed joint written statement. They denied charitable nature of the land for want of knowledge. According to defendants No.1 to 3, land was allotted to Tikka Davinder Singh s/o Ram Kishan Singh in his personal capacity in lieu of land left by him in West Punjab. The land was never allotted to him as Manager of a religious institution, but was allotted to him in personal capacity. The land allotted to him was inherited by Baba Madhusudan Singh vide mutation dated 26.05.1962. Davinder Singh and Madhusudan Singh dealt with the property in their personal capacity. Land in excess of the permissible area as per law was declared surplus following proper procedure. Thus, suit filed by the plaintiffs deserves to be dismissed. Defendant No.4 also contested suit and claimed that the land measuring 362 kanals 13 marlas was purchased by Agriculture Department, State of Punjab for establishment of seed farm vide sale deed dated 08.09.1961. State having become absolute owner, plaintiffs cannot be allowed to dispute their title.

6. Defendant No.5 in her separate written statement denied the contents of the plaint for want of knowledge and claimed that she purchased land detailed in sub-clause C of the plaint from Baba Madhusudan Singh after due inquiry, for a valuable consideration without any notice of the rights of the plaintiffs. However, she admitted that Baba Davinder Singh and her father Baba Madhusudan Singh had been using income of their lands for the purpose of Gurudwara Una and for a free langar seva.

7. On the basis of the pleadings, Court of the first instance framed following issues:-



- “i) Whether Civil Court was not jurisdiction to try the suit? OPD*
- ii) Whether the suit land belongs to religious and charitable trust and is exempted from the provision of Land Reforms Act, 1972? OPD*
- iii) Whether the defendant No.5 is bonafide purchaser for value and without notice? OPD.*
- iv) Relief.”*

8. Issue No.1 was decided in favour of the plaintiff as not pressed. Court of the first instance held that the allotment of the land in the present case was made in the year 1947. Alienation in favour of the State was made in the year 1961. Despite there being sale in favour of defendant No.4 and possession having been handed over to defendant No.4, the present suit was filed only in the year 1979. Holding that there being no evidence on file to prove that the properties are of religious and charitable trust, same cannot be held to be exempted under the provisions of Punjab Land Reforms Act. Trial Court decided issue No.2 against the plaintiff and in favour of defendants. Answering issue No.3, Court of the first instance held that defendant No.5 failed to produce any evidence to show that she was a bonafide purchaser and thus, answered the same in favour of the plaintiffs.

9. In view of the finding on issue No.2, Trial Court dismissed the suit filed by the plaintiffs.

10. Unsuccessful plaintiffs approached Lower Appellate Court. Lower Appellate Court reversed the findings recorded by the Trial Court on issue No.2 holding that as per jamabandi for the year 1946-47 Ex.P-1, land situated in Killa Jawahar Singh, District Gujranwala is shown to be owned by Dam Dama Baba Sahib Singh, Una and Ahatma Davinder Singh. Thus, the land in village Killa Jawahar Singh being



owned by Dam Dama Baba Sahib Singh of Una under the management of Baba Davinder Singh, land in lieu thereof ought not have been allotted to Davinder Singh in personal capacity. Thus, Lower Appellate Court held that 133/290 share of the land belongs to Dera Dam Dama Sahib Shrine of Una and the same cannot be declared surplus. It further held that so far as defendants are concerned, they are entitled to be adjusted qua the land purchased by them out of 157/290 share owned by Baba Davinder Singh/Baba Madhusudan Singh in their personal capacity.

11. State filed instant regular second appeal. The same was allowed vide judgment dated 09.03.2010. This Court while allowing the regular second appeal observed as under:-

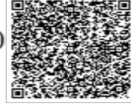
“xx xx xx

After hearing the learned counsel for the parties and perusing the impugned judgments, as also the record, I am of the considered opinion that the appeal deserves to be allowed.

The question of law which arises for consideration is as to whether in view of the provisions of Section 21 of the 1972 Act, the jurisdiction of the civil Court to entertain the instant suit was barred or not?

To decide the aforesaid question, first of all the objection of the learned counsel for the respondents has to be met with. He has contended that the issue of jurisdiction was never pressed before the Courts below and, therefore, the appellants were estopped from raising it before this Court in Regular Second Appeal.

I am afraid, such a contention has to be repelled. The question of jurisdiction is, of course, a mixed question of law and fact, but if the objection in the instant case is to be seen, then it is purely a question of law and does not rest upon any factual aspect of the controversy. According to Section 21 of the 1972 Act, which is extracted below, the jurisdiction of the civil Court has been expressly barred to entertain any suit relating to the orders of the concerned authorities in respect of



the surplus land:-

“21. Bar of jurisdiction.- (1) Save as provided by or under this Act, the validity of any proceedings or order taken or made under this Act shall not be called in question in any court or before any other authority.

(2) No civil court shall have jurisdiction to entertain any suit, or proceed with any suit instituted after the appointed day, for specific performance of a contract for transfer of land which affects the rights of the State Government to the surplus area under this Act.”

Concededly, the land was declared surplus by the Collector, Agrarian, Hoshiarpur under the provisions of the 1972 Act vide order dated 28.6.1976. There was no challenge to this order before the Commissioner, Financial Commissioner or the writ Court, which could have evaluated the legitimacy thereof or could have gone through the question as to whether the prescribed authority has rightly concluded regarding declaration of the land being surplus in the hands of Baba Madhusudan Singh. In view of the clear and specific bar as contained in Section 21 of the 1972 Act, this Court does not wish to transcend into the revenue record to determine as to whether the land actually could have been declared surplus or not. It was for the respondents or the affected persons to have challenged the aforesaid order before the competent authorities and which has not been done by any one.

The judgment relied upon by the learned counsel for the respondents is of no use to the respondents for the simple reason that those were the proceedings where a challenge had been made to such like orders before the competent authorities and the learned Single Judge of this Court was answering the controversy while exercising the writ jurisdiction. But, as observed above, since the respondents failed to challenge the aforesaid order before the competent authorities, the jurisdiction of the civil Court was clearly barred in view of the provisions of Section 21 of the 1972 Act and the observations of the Full Bench in State of Haryana and others Versus Vinod Kumar and others (supra).

The question of law referred to above, therefore, stands answered to observe that the jurisdiction of the civil



Court was clearly barred and the suit was not competent in view of the provisions of Section 21 of the 1972 Act.”

12. Plaintiffs approached Supreme Court by way of Civil Appeal No.1365 of 2021. Appeal stands allowed vide judgment dated 09.07.2024, observing as under:-

“xx xx

Having heard the arguments of both sides, this Court is of the opinion that the High Court fell in error in dismissing the suit primarily on the ground that that Civil Court’s jurisdiction was barred by Section 21 of the Land Reforms Act.”

13. In view of the aforesaid observations made by Supreme Court in the remand order, the issue with respect to jurisdiction of the Civil Court having been adjudicated, the matter now needs to be decided afresh on merits.

14. Learned counsel for the appellant-State submits that both Baba Madhusudan Singh and Davinder Singh dealt with the property as their personal land. Transfers were made including the one in favour of defendant No.4. Whole of the record of rights from allotment of the land onwards shows that the land was allotted to Bedi family in their personal capacity and not as a religious and charitable institution. Instant suit is nothing, but a ploy to defeat the orders made by authorities under the enactments related to land reforms. At no point of time, plaintiffs challenged allotments made by rehabilitation authorities in favour of Tikka Davinder Singh, father of Baba Madhusudan Singh. Baba Madhusudan Singh alienated land measuring 330 kanals in the year 1972. The present suit is a proxy litigation being initiated by Bedi family to defeat the orders declaring the land surplus bringing forth the alleged disciples.



15. *Per contra*, senior counsel representing respondents submits that as per the revenue record relating to village Killa Jawahar Singh Gujaranwala (Ex.P1, Ex. P8 and Ex. P9 the religious Trust namely Damdama Baba Sahib Singh shrine at Una District Hoshiarpur under the management of Devinder Singh son of Ram Krishna Singh was recorded as owner in possession of the land and thereafter as per revenue record exhibited on record as Ex. D2, D3, D7 and D8 Tikka Devinder Singh was shown in possession of the land as owner at village Khiala Blanda District Hoshiarpur. As per the Sanand Allotment (Ex P10) the allotment at Khiala Bilanda was made in the name of Devinder Singh in his personal capacity without any reference to the religious Trust in lieu of land situated in village Killa Jawahar Singh (Gujaranwala).

16. He contends that as per the revenue record produced in evidence, in village Jawahar Singh, Gujranwala, Baba Devinder Singh did not own any land in his personal capacity. The entire land at Killa Jawahar Singh was owned by the religious body. The appellant/defendant has failed to produce any evidence to show that any other land was separately allotted in favour the religious Trust. Once it was established on record that the entire land allotted to Baba Davinder Singh was wrongly allotted in his personal capacity without any reference the part of land being held by him as Manager on behalf of the religious Trust, the suit of the plaintiffs has been rightly decreed. It has been brought to the notice of this Court that on an earlier occasion this Court allowed the appeal on the limited aspect of jurisdiction holding that the civil court had no jurisdiction to go into the question of



declaration of surplus area as the jurisdiction of civil court was barred under the Surplus Laws. The Civil Appeal No.1365/2011 filed by the plaintiff /respondent was allowed. The Supreme Court and after deciding the question of jurisdiction in favour of the plaintiff /respondent, the matter was remitted back to this Court to decide the appeal on merits. He submits that the land was earlier wrongly declared surplus in the hands of Baba Devinder Singh, treating the entire land to be in his personal property and the revision petition pending before the Financial Commissioner regarding challenge to the surplus area was decided on 14.09.1984 whereby the matter was remanded by the Financial Commissioner to the Collector, Hoshiarpur to decide the matter afresh and thereafter the Prescribed Authority vide its order dated 06.11.1987 found that the property under surplus area with Baba Madhu Sudan Singh s/o Baba Devinder Singh after separating the land of the religious Trust. The said order came into existence during the pendency of the present R.S.A. and was produced before the Supreme Court alongwith Special leave petition as Annexure P/14 and P/15.”

17. I have heard counsel for the parties and have carefully gone through the records of the case.

18. It is not disputed that the land was allotted to the Bedi family in lieu of the lands left behind by them in West Punjab. It is those lands which have been further sold by Baba Madhusudan Singh and Baba Davinder Singh. Counsel for the appellant has not been able to dispute that as per Ex.P-1, land situated in village Killa Jawahar Singh Wala is shown to have been owned by Dam Dama Baba Sahib Singh Una under the management of Davinder Singh. The land situated



in Wazirabad, Una Nagar and other villages were personal property of Bedi family. However, at the time of allotment, land in lieu of the one owned by Dam Dama Baba Sahib Singh Una Shrine was also allotted to the Bedi family i.e. Baba Davinder Singh in his personal capacity. It is in the background of these facts that the Lower Appellate Court held as under:-

“13. xx xx xx In lieu of the land left by Baba Davinder Singh whether personal or as Muntzia of the Dera, he was allotted land at Khiala Balanda vide allotment Sanad Ex.P.19. In lieu of the land left in Pakistan land measuring 93 standard Acres 6 Units was allotted in Khiala Balanda. In Qila Jawahar Singh land measuring 133 Standard Acres 1/2 Unit was owned by Dam Daman Baba Sahib Singh of Una under the management of Baba Davinder Singh. The entire land left in Pakistan including the land owned by Baba Davinder Singh personally totalled about 200 Standard Acres out of this 290 standard Acres. Dera Dam Dama Sahib of Una's ownership extended to 133 standard Acres at Qila Jawabar Singh. So in the land allotted at Khiala Balands, Dera Dam Dama Sahib Singh of was should have 133/290 shares. Rest 187/290 shares should belong to Baba Davinder Singh his successors in interest. In lieu of 98 Standard Acres 7½ units land as detailed in the heading of the plaint was allotted in consolidation, 133/290 share of the land was alienable. 133/290 share of the land in suit belongs to Dera Dam Dama Sahib Shrine of Una which is a religious and charitable institution of Public nature a sikh shrine is managed and supervised by Babu Madhusudan Singh.

14. In the result, this appeal succeeds to this extent that 133/290 share of the land in suit as detailed in sub para (a) and (b)(c) of the heading of the plaint situated in village Khiala Balanda was charitable dedicated properties of religious and Charitable nature belonging to the religious and charitable sikh shrine, namely, Dam Dama Baba Sahib Singh of Una under Ahaltnam i.e. under management and supervision of Baba Madhusudan Singh. 133/290 share of the land in suit could not have been touched by the Collector (Agrarian) for



declaring the surplus area in the hands Baba Davinder Singh and that the transfers in favour of the defendants as well as the order of declaration of surplus area shall have no effect to far as 133/290 share of the lands in suit pertaining to Dera Dam Dama Sahib shrine of Una is concerned. Defendants shall not transfer any land pertaining to 133/290 share of Dam Dama Sahib Singh of Una. So this appeal succeeds to this extent and a decree for declaration is passed against the defendants declaring that 133/290 share of land as detailed in sub paras a,b, and c situated in village Khiala Balanda was in alienable as belonging to the religious and charitable shrine, namely Dam Dama Sahib Singh of Una and could not have been declared surplus under the Punjab Lands Reforms Act. No.10 of 1973 and the Punjab Security of Land Tenures Act, land the transfers in favour of the defendants as well as the order of declaration of surplus area will not effect this 133/290 share of Dam Dama Sahib, Una in the land in suit. So far as defendants are concerned they will be adjusted to the extent of the land purchased by them from out of 157/290 share belonging to Baba Devinder Singh/Baba Madhusudan Singh personally. Defendants are permanently restrained from making further transfers of 133/290 share of the lands in suit.”

19. The authorities declared the land surplus treating the same to be owned by Baba Davinder Singh inherited by Baba Madhusudan Singh in his personal capacity. Part of the land in the hands of Madhusudan Singh was declared surplus. State authorities claimed that the allotment having remained unchallenged, plaintiffs cannot be allowed to claim that the land allotted to Davinder Singh cannot be declared surplus. Objections is being raised that till allotment proceedings in favour of Davinder Singh in his personal capacity are challenged, plaintiffs cannot succeed.

20. In the considered opinion of this Court, Section 14 of the Punjab Land Reforms Act, 1972 answers the issue raised by the appellant. Section 14 reads as under:-



“14. Exemption of lands belonging to religious or charitable institutions.

- Notwithstanding any judgment, decree or order of any court or authority, the provisions of this Chapter shall not apply to lands belonging to any religious or charitable institution of a public nature in existence immediately before the date of commencement of this Act, but not belonging to the mahant, mohtamim or manager thereof :

Provided that the exemption specified herein shall be admissible till such time only as the land or income therefrom is utilized for the specified purpose of such institution and shall not be admissible to the lessees of such lands.

Explanation. - For the purpose of this section, 'religious or charitable institution' means

- (i) a temple
- (ii) a gurdwara;
- (iii) a gaushala;
- (iv) a wakf as defined in clause (ii) of section 3 of the Wakf Act, 1954 (Parliament Act 29 of 1954); or
- (v) any other religious place of the public nature.”

21. In order to attract provisions of Section 14, the plaintiffs were required to prove that:-

- “(i) Land belongs to a religious or charitable institution and to mahant, mohtamim or manager;
- (ii) The institution is of a public nature;
- (iii) The institution has been in existence immediately before the commencement of the Reforms Act; and
- (iv) The land or the income thereof is utilized for the purpose of institution.”

22. So far as the land being ownership of Shrine named as Dam Dama Baba Sahib Singh Una is concerned, the same stands proved vide Ex.P-1. The Shrine was in existence prior to 1947. There is no contest to the claim made by the plaintiffs that the Shrine is a religious institution in form of a Gurudwara. It has also come on record that the

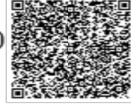


income of the land is being used for religious purposes like organising langars for poor people etc.

23. Once plaintiffs successfully proved that land in question was allotted in lieu of land vested in shrine left in other part of the country at the time of partition, the land thus vests in shrine. Davinder Singh and his predecessors are merely managers of the land and are not owners thereof. The order declaring land as surplus under mistake that the same is owned by Davinder Singh and his successors cannot preclude the operation of Section 14 of the Act. Section 14 operates notwithstanding any judgment, decree or order of any court or authority.

24. In view thereof, this Court finds that the provision as contained under Section 14 of the 1972 Act being a non obstante clause, not effected by any judgment, decree or order of any Court order or authority. A wrong allotment made in the name of Davinder Singh instead of Shrine cannot act as a shield against operation of Section 14. Thus, the land belonging to the Shrine could not have been declared surplus under the provisions of Punjab Land Reforms Act, 1972 de hors order of allotment in favour of Davinder Singh. Thus, findings recorded by Lower Appellate Court on issue No.2 need no interference and are maintained.

25. So far as the right of the appellants are concerned, Lower Appellate Court has held them entitled to get their share adjusted and set off from the land out of 157/290 share belonging to Baba Davinder Singh/Dam Dama Sahib Singh Una personally.



26. In view thereof, finding no merits in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

06.05.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes