

LPA-998-2024 (O&M)

2025:PHHC:140413-DB



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

**LPA-998-2024 (O&M).
Date of decision: 09.10.2025**

KARAM SINGH AND OTHERS

..... Appellant(s)

Versus

STATE OF PUNJAB AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. B.R. Mahajan, Senior Advocate with
Mr. Som Nath Saini, Advocate
for applicant-appellants.

Mr. R.S. Pandher, Additional AG, Punjab.

Mr. Vivek Salathia, Advocate
for respondent no.10 (i to iv) and 11.

Mr. Akshay Bhan, Senior Advocate with
Mr. Rajiv Joshi, Advocate and Mr. Amarjit Khurana, Advocate
for caveator/respondent no.15.

LISA GILL, J.

1. Prayer in this appeal is for setting aside decision dated 22.03.2024, passed by learned Single Judge whereby writ petition filed by present appellants/writ petitioners has been dismissed.

2. Brief facts as pleaded and necessary for adjudication of the matter are that CWP-6797-2010 was filed by writ petitioners for setting aside order dated 11.03.2010, passed by Financial Commissioner, Revenue Punjab whereby Review Petition filed on behalf of private respondents against order dated 14.06.2005 by the then Financial Commissioner (Appeals-I), Punjab

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was entertained. Revision petition filed by writ petitioners challenging orders dated 08.11.2004, 22.11.2004, 02.05.2005 and 28.02.2005, passed by Assistant Collector, Ist Grade, Dera Bassi, rejecting their objections against Naksha Arra, was decided on 14.06.2005. It was dismissed with the observations that tenants are not to be dispossessed except in due course of law. Another Revision Petition bearing ROR No.461 of 2005 was also filed before Financial Commissioner (Appeals-1), Punjab by Kiran Dev, one of the co-sharers challenging same orders dated 08.11.2004, 22.11.2004, 02.05.2005, 28.02.2005. Both the above Revision Petitions were decided vide common order dated 14.06.2005 by Financial Commissioner (Appeals-I), Punjab, reiterating that tenants are not to be dispossessed except in due course of law. It is submitted that after passing of said orders, petitioners, statedly tenants, were being dispossessed forcibly upon which counsel for petitioners met the then Financial Commissioner (Appeals-I), Punjab and apprised him of the matter, whereupon on 20.06.2005, Financial Commissioner recorded that petitioners had made an oral request for his intervention upon which he spoke to SDM, Dera Bassi who informed that Tehsildar would be directed not to remove the tenants. It is further recorded in order dated 20.06.2005, passed by Financial Commissioner that some of land owners and their Advocates apprised him that petitioners could not be termed as tenants as they had become co-sharers upon purchase of land and were thus liable to be removed. Parties were called for hearing on the next date. Various orders as reproduced in para 6 and 7 of the writ petition were passed.

3. It is submitted that land in question was originally owned by Mehma Singh. Pedigree table as submitted before learned Writ Court and reproduced in order dated 22.03.2024 is as under:-

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MEHMA SINGH
I

I HAZURA I HARCHARAN	I ARJUN I DHANVIR	I SURJAN	I GURCHARAN I they sold their share in 1962 to tenant (30 acres)	I HARCHARAN I
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4. Total land owned by Mehma Singh was 1018 Bighas 5 Biswas out of which land measuring 324 Bighas 15 Biswas was under tenancy. 715 Bighas of land was with the owners/co-sharers. An application for partition of 715 Bighas of land was filed by Arjun Singh in the year 1964. Matter was remanded vide order dated 09.03.1968 by the then Financial Commissioner, directing that entire land including portion under tenancy should be subjected to partition. Matter was, however, dismissed in default but restored subsequently and ultimately came up before the Financial Commissioner (Appeals) for adjudication against orders dated 27.09.1995, 28.08.1996 and 23.05.1998, passed by Assistant Collector, Grade-I; Collector and Commissioner, respectively regarding Naksha Arra and mode of partition. Petition was dismissed vide order dated 23.09.2002 and the matter was placed before Assistant Collector, Grade-I, who passed Naksha Arra after considering objections raised. Some of the concerned parties again approached the Collector, Commissioner and the then Financial Commissioner on the plea that they were not provided Naksha Arra. Matter was again remanded with a direction that Naksha Arra be provided to the parties and objections taken afresh. Necessary action was accordingly taken. Orders dated 08.11.2004 and 22.11.2004 were passed by Assistant Collector, order dated 28.02.2005 was passed by Collector and thereafter order dated 22.05.2005 was passed by Divisional Commissioner, Patiala. Said orders with reference to partition proceedings were challenged by way of two RORs i.e. ROR-512-2005 and ROR-461-2005, which were disposed of on 14.06.2005. It is to be noticed that

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ROR-461-2005 was filed by Kiran Dev Singh assailing orders dated 08.11.2004 and 22.11.2004 whereby Assistant Collector, Grade-I, Dera Bassi approved Naksha Arra (Table-B) and Naksha Irri (Table-C), respectively in partition proceedings which had started in 1964 on the application of Arjun Singh, his grant father. These orders had admittedly been upheld by Collector/SDM on 28.02.2005 and further by Divisional Commissioner on 18.05.2005. Kiran Dev Singh had sought to raise the question of title with some of respondents contending that revision petition was a proxy petition on behalf of tenants to stall partition. Kiran Dev Singh was stated to be a Non-Resident Indian, settled in Spain and that the petition had been filed on his behalf by his Power of Attorney Holder – Fakir Chand, who was the tenant. No merit was found in the revision petition which was dismissed on 17.06.2005 with the observation that tenants are not to be dispossessed except in due course of law.

5. Application under Section 15 of the Punjab Land Revenue Act, 1887 (for short Act, 1887) was filed in July, 2005 on behalf of respondents no.8, 21 and 22. Arguments were heard and review application was ultimately allowed vide impugned order dated 11.03.2010 whereby order dated 14.06.2002, passed by Financial Commissioner to the extent of direction qua restraint on dispossession of tenants was set aside. It is to be noted that three review petitions filed by co-sharers were disposed of vide impugned order dated 11.03.2010 whereby order dated 14.06.2005 was partially modified in so far as protection given to tenants was concerned. It was directed that partition proceedings would continue in view of order dated 28.02.2005, passed by Collector, Sub-Division Dera Bassi. It was duly noted that tenants at all points of time had taken the plea that their tenancy had fructified into ownership and they had become full owners in view of Pepsu Abolition of Biswedari Ordinance XXIII, 2006 (hereinafter referred to as the Ordinance XXIII, 2006)

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and that some of the tenants had even purchased the shares of Gurcharan Singh and Harcharan Singh sons of Mehma Singh during the years 1962-1963. This plea of tenants being occupancy tenants had been rejected and said decision upheld right up to Hon'ble the Supreme Court. It was held that tenants have lost their plea of occupancy tenants up to Hon'ble the Supreme Court, therefore, it was not appropriate to allow the relief by Financial Commissioner in order dated 14.06.2005 and no protection can be provided to the so called tenants during partition proceedings which were pending for more than 45 years. Aggrieved therefrom CWP-6797-2010 was filed by writ petitioners.

6. Learned counsel for petitioners vehemently argued that petitioners are tenants since 1929 as is duly admitted by respondents. Predecessors in interest of petitioners were brought by land owner Mehma Singh to make the land cultivable by inducting them as tenants and there is no dispute in respect to their tenancy over land measuring 324 Bighas 15 Biswas, which was also included in partition proceedings keeping in view order dated 09.03.1968 and that co-sharers had initiated proceedings for recovery of rent. Learned counsel for appellant/writ petitioners further contended that as per Section 111 of the Transfer of Property Act, 1882 (for short 'TPA, 1882') any joint owner of land or any joint tenant of a tenancy in which right of occupancy subsists may apply to a Revenue Officer for partition of a share in the land or tenancy as the case may be. Judgment dated 06.09.1991, passed by this High Court in RSA-1613-1981 has been mis-construed by the Financial Commissioner and thereafter the learned Single Bench. Claim of writ petitioners therein was to the effect that proprietary rights accrued to them because of promulgation of Ordinance XXIII, 2006, thus conferring occupancy rights upon them qua land measuring 324 Bighas 15 Biswas and thus they had become owners of 3/4th share of entire land. It was further

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argued vehemently that Section 111(d) of TPA, 1882, does not automatically lead to determination of lease until and unless interest of the lessee and lessor in the whole of the property in question becomes vested at the same time in one person. Moreover, until and unless the lessor gives notice to lessee regarding determination of lease, there can be no such assumption. Furthermore, even if rights of petitioners as occupancy tenants have not been accepted, they would ultimately still remain tenants. Respondent - land owners/co-sharers in any case have at all times accepted the writ petitioners to be tenants. A tenant can thus not be dispossessed in partition proceedings and can only be evicted in accordance with law by taking recourse to eviction proceedings under applicable provisions of law. It was thus prayed that this appeal be allowed, impugned decision dated 22.03.2024, passed by learned Single Judge, be set aside and the writ petition be allowed as prayed for.

7. Per contra, learned counsel for respondents no.1 to 5-State, respondent nos. 10(i to iv) & 11 and caveators/respondent no.15 have opposed the arguments addressed on behalf of appellants with equal vehemence. It is to be noticed at this stage that notice of motion had not been issued in this appeal. Caveat has been filed on behalf of respondent no.15 and respondents no.1 to 5, 10(i to iv) and 11 are represented.

8. Learned counsel for private respondents submitted that appellant-writ petitioners have at all times claimed themselves to be co-sharers and they had even set up a plea of dispossession claiming title by prescription. In the partition proceedings before Assistant Collector, Ist Grade, appellants admitted their status over the land in dispute as that of co-sharers. Claim set up by petitioners in respect to being occupancy tenants was rejected by learned Civil Courts and said decision so upheld right up to Hon'ble the Supreme Court. Thus, they are not entitled to raise such contradictory pleas at this stage suddenly claiming to be only tenants.

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9. Mr. Akshay Bhan, learned Senior Advocate, submits that case of writ petitioners squarely falls within the four corners of Section 111(g) of TPA, 1882. In this view of the matter, Financial Commissioner has correctly exercised jurisdiction under Section 15 of the Act, 1887, to rectify the error on the face of record.

10. Learned counsel for respondents submitted that respondent no.14 in its Review Petition had pleaded that none of writ petitioners had challenged earlier orders of Assistant Collector, Collector and Commissioner. Therefore, revision petition under Section 15 of the Act, 1887, filed by them was incompetent and their plea raised for the first time for protection of their tenancy was clearly incorrect and unacceptable. Detailed reference was made by learned counsel for respondents to pleadings in Civil Suit No.505 of 19.09.1974 as well as decision dated 15.03.1980 therein by learned Sub-Judge, Ist Class, Rajpura and as is referred to in para nos.6 and 7 of impugned order dated 22.03.2024, which reads as under:-

“6. Learned Senior Counsel has further submitted that respondent No.14 while filing application for review had specifically pleaded that none of the petitioners had challenged the earlier orders of the Assistant Collector, Collector and Commissioner and therefore, revision petition under Section 16 of the Punjab Land Revenue Act was totally incompetent. It is further submitted that the petitioners had never claimed themselves to be the tenants and therefore, the plea regarding protection of their tenancy as *gair marusi* for the first time before the Financial Commissioner could not have been raised. The petitioners claimed themselves to be co-sharers and owners on account of either pepsu ordinance or adverse possession and purchases made by them from Gurcharan Singh and Harcharan Singh and thus, their claim was barred by Section 11 CPC. Learned Senior Counsel has further submitted that in the Civil Suit No.505 of 19.09.1974, dismissed by Sub Judge First Class, Rajpura, vide order dated 15.03.1980, issue No.2A was framed by the Civil Court was to the effect that:-

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“2A. Whether the plaintiffs have become the owners of the suit land by adverse possession? OPP”

7. Learned Senior Counsel has further submitted that while dealing with issue No.2A, learned Civil Court gave findings in para No.16 and 17 as follows:-

“16. In order to prove this issue, the Plaintiffs have examined Mani Singh PW1, Dia Singh PW2, Assa Singh PW3, Chatin Singh PW4, Arjan Singh PW5, Jagan Singh PW5-A and Ramji Dass, Plaintiff made his own statement as PW7. All of them have unanimously deposed that the possession of the Plaintiffs is very long. They have also deposed that they are in possession of the Suit land as owners. But the Jamabandis Ex.P53 of the years 1967-68 and Jamabandi Ex.P54 for the year 1977-78 show that the Plaintiffs have 2/5th share in the Suit land and they are in possession of the same as co-owners alongwith the other Defendants No.1 to 10. It is well settled principle of law that the possession of one co-sharer cannot be adverse to the claim of the other co-sharers. The Jamabandis of different years placed on record only shows that the Plaintiffs are having 2/5th share in the Suit land. This fact is also admitted by the Defendants that the Plaintiffs are owners of 2/5th share in the Suit land which they had purchased from Gurcharan Singh and Harcharan Singh sons of Mehma Singh.

17. In this view of the matter, I hold that the Plaintiffs have not become the owners of the Suit land by adverse possession. This issue is, therefore, decided against the Plaintiffs and in favour of the Defendants No.1 to 10.”

11. Reference was also made by learned counsel for respondents to decision dated 06.09.1991, whereby RSA-1613-1981, filed by petitioners was dismissed as well as order dated 06.02.1992, passed by Hon'ble the Supreme Court whereby SLP No.1238/1990, challenging decision dated 06.09.1991 was dismissed.

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12. Learned counsel for respondents pointed out that petitioners had duly filed their objections to Naksha Arra before Assistant Collector, Ist Grade on 05.11.2004. Naksha Arra was approved on 08.11.2004 and Naksha Irri on 22.11.2004 and thereafter, Sanad Taqseem was issued. There have been approximately five rounds of litigation up to Financial Commissioner and multiple litigations before the Civil Courts and it is a matter of record that petitioners at no point of time had ever admitted themselves to be tenant either before Revenue Courts or Civil Courts. They have always claimed themselves to be owners of suit property. Furthermore, 46 out of 51 writ petitioners had relinquished their position after compromising the matter. Moreover, Financial Commissioner, Punjab vide order dated 11.03.2010 has correctly rectified the mistake which is apparent on the face of it in order dated 14.06.2005. Dismissal of appeal was sought.

13. We heard learned counsel for parties before us and have perused the file carefully with their able assistance.

14. In so far as initiation of partition proceedings in 1964 qua part of the land, remand of the matter for consideration/partition of the entire land in question; stand of writ petitioners claiming to be owners of land before all Forums and its rejection; approval of Naksha Arra on 08.11.2004 after the writ petitioners had filed their objections thereto; approval of Naksha Irri on 27.11.2004 and issuance of Sanad Taqseem, is a matter of record as is the passing of orders dated 14.06.2005 and 11.03.2010. Said facts are not being reproduced again in detail for the sake of brevity. Petitioners, their predecessors in interest, were statedly inducted as tenants but they improved their status as co-sharers in the year 1962-1963 by purchasing shares of Gurcharan Singh and Harcharan Singh sons of Mehma Singh. It is further undeniable that petitioners had initiated civil suits claiming themselves to be occupancy tenants and their possession after Ordinance XXIII, 2006 being

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open and hostile to the owners besides claiming to be owners by way of adverse possession. Learned Civil Court has specifically decided the issue as to whether writ petitioners had become owners of property by way of adverse possession against them. Their claim of occupancy tenants was rejected right up to Hon’ble the Supreme Court. In the suit for settlement of accounts, filed by respondent no.14 and others, titled ‘Dhanvir Singh and others Vs. Lachhman and others’ also, writ petitioners had taken a specific stand that they are cultivating the suit land as owners, thus, plaintiffs therein had no right to ask for share of produce or *Theka* in respect thereof.

15. At this stage, it is useful to refer to Section 111(d) and (g) of TPA, 1882, which reads as under:-

“**Section 111. Determination of lease** – A lease of immovable property determines-

- a).....
- b).....
- c).....
- d)in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;
- e).....
- f).....
- g) by forfeiture; that is to say, (1) in case the lessee breaks an express condition which provides that, on breach thereof, the lessor may re- enter; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; [or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter on the happening of such event]; and in 3[any of these cases] the lessor or his transferee [gives notice in writing to the lessee of] his intention to determine the lease;
- h).....”

16. In view of specific and clear provision as above, we do not find any merit in the arguments as raised on behalf of appellants. Reliance by learned counsel for petitioners on judgment of Hon’ble the Supreme Court in ***M/s. Karta Ram Rameshwar Dass Vs. Ram Bilas and others, 2006 AIR (SC) 362***, is of no avail for the reason that the same was not a case where a tenant

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had become a co-sharer. The observation that a co-sharer could evict a tenant under the relevant provisions of law has been read out of context. In *M/s. Karta Ram Rameshwar Dass's* case (supra), the dispute was between two co-owners of property in question i.e. a shop. It is in this factual scenario, it was held by Hon'ble the Supreme Court that a tenant can object in respect to partition of property between the two brothers if it is shown that the same was not bonafide and was made with an oblique motive to overcome rigours of law which protected eviction of tenant.

17. Similarly, decision of Hon'ble the Supreme Court in *Parmod Kumar Jaiswal and others Vs. Bibi Husn Bano and others, 2005 AIR (SC) 2857*, does not come to the aid of petitioners. Hon'ble the Supreme Court in the said case was considering provisions of Section 111(d) of TPA, 1882. Section 111(g) of TPA, 1882 was not the subject matter of consideration.

18. In the present case, it cannot be held that there is no renunciation of the character of lessee by writ petitioners or that there is no unequivocal plea of adverse possession. It has been correctly held by learned Single Bench that it is not open to writ petitioners to approbate and reprobate in respect to their status qua the land in question and it is for the first time before the Financial Commissioner that writ petitioners took the plea of tenants. They had duly participated in the partition proceedings and present is clearly a furtive attempt on their part to retain possession of land in question. Respondents, it is correctly held, had invoked their remedy for review of order dated 14.06.2005 because order by Financial Commissioner, providing protection to writ petitioners qua dispossession was clearly beyond his jurisdiction. Relevant portion of impugned decision dated 22.03.2023, passed by learned Single Bench reads as under:-

“21. There is no gainsaying that the case in hand pertains to the partition proceedings of the land measuring 1018

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Bighas and 15 Biswas. The partition proceedings are always among the co-sharers. Revenue authorities have to decide the case as per entitlement of all the co-sharers in accordance with law. If the petitioners have purchased the share of some of the co-owners, then they definitely stepped into the shoes of that co-sharers from whom they had purchased the land. Thus, by becoming co-sharers the petitioners would join the partition proceedings as the co-sharers. The rights of any of the co-sharers under any different law, are to be decided under the proceedings invoked under those respective laws. However, the same cannot be adjudicated upon in the partition proceedings. As is evident from perusal of the order dated 14.05.2005, the observation made by learned Financial Commissioner by providing protection to the petitioners for their dispossession, was totally beyond his jurisdiction. Thus, the respondents had rightly invoked their remedy for the review of this order by way of filing an application under Section 15 of the Punjab Land Revenue Act, as there was an error apparent on the face of it.

22. Needless to say that the petitioners had taken this plea of tenancy at the first time before learned Financial Commissioner and the respondents were never given any opportunity to respond to the stand taken by the petitioners, which was never before the Revenue authorities at the time of the initiation of the partition proceedings. It is also evident from the perusal of the impugned order that learned Financial Commissioner after having passed order dated 14.06.2005, had given telephonic message to the Revenue authorities not to take possession from the petitioners when he himself had become *functus officio* and travelled beyond his jurisdiction.

23. As has been discussed above the petitioners claimed themselves to be the owners of the suit land by way of adverse possession which plea of them was negated upto the Hon'ble Supreme Court and as such the petitioners cannot be permitted to come out with a new plea of tenancy when they themselves were claiming ownership on the basis of adverse possession. The arguments raised by learned counsel for the petitioners is misconceived. As evident from the record, the petitioners are changing their status to their convenience at every stage. Once the issue regarding the tenancy is settled upto Hon'ble Supreme Court, the Revenue authorities could not have decided the partition proceedings in contravention to the same. However, the petitioners have made a futile attempt to

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wriggle out of the same on the basis of the untenable contentions.

24. There is no dispute regarding the judgments relied upon by learned counsel for the petitioners, however, in all its humility, in the facts and circumstances of the present case, the same are distinguishable, rather the judgments relied upon by learned Senior Counsel for respondent No.14 are applicable to the facts of the present case.

25. Thus, in the considered opinion of this Court, the order dated 11.03.2010 passed by respondent No.1 in the review application vide which order dated 14.06.2005 passed by the then Financial Commissioner was reviewed and the protection earlier granted to the petitioners regarding their eviction through due process of law was strike down, suffers from no illegality or perversity and as such the same is upheld. Resultantly, the present petition which is devoid of any merit is dismissed. ”

19. Learned counsel for appellants was unable to point out any illegality, infirmity or irregularity in impugned order dated 22.03.2024, passed by learned Single Bench, which calls for interference by this Court. Same is accordingly upheld.

20. No other argument was addressed.

21. Keeping in view the facts and circumstances as above, this appeal is dismissed being devoid of any merit.

22. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(DEEPINDER SINGH NALWA)
JUDGE

09.10.2025
Sunil

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