

**LPA-210-2025 (O&M)**

2025:PHHC:085927-DB



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

**LPA-210-2025 (O&M)**

**Date of decision: 15.07.2025**

**GURDIAL KAUR (DECEASED) THROUGH LRS** ..... Appellant(s)  
**Versus**

**FINANCIAL COMMISSIONER, PUNJAB AND OTHERS**  
..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**  
**HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. P.P.S. Duggal, Advocate  
for appellant.

Mr. R.S. Pandher, Senior DAG, Punjab.

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**LISA GILL, J.**

1. Prayer in this appeal is for setting aside order dated 11.11.2024, passed by learned Single Bench, whereby CWP-15420-2024, filed by appellant/writ petitioner has been dismissed.

2. Brief facts necessary for adjudication of the matter are that appellant-writ petitioner filed CWP-15420-2024 for setting aside orders dated 16.08.1976 and 13.03.1978, passed by Collector, Agrarian, order dated 08.08.2016, passed by Commissioner, Jalandhar Division, Jalandhar and order dated 30.11.2021, passed by Financial Commissioner (Appeals), Punjab. It is pleaded in the writ petition that one Harnam Singh was a big landlord having ownership of about 416 Kanals of land in village Sohal Jagir, Tehsil and District Gurdaspur and 543 Kanals of land in village Pindri Sain, Tehsil and District Gurdaspur. Harnam Singh had three wives namely Anab Kaur, Iqbal Kaur and Gурpal Kaur. During his life time, Harnam Singh gifted entire land in favour of his three wives to the extent of 1/3rd share each. Anab Kaur, mother of Gurdial Kaur received 138.66 Kanals of land in village Sohal Jagir

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and 176 Kanals in village Pindri Sain i.e. a total of 314.60 Kanals. This land was inherited by her only daughter Gurdial Kaur, who had two daughters namely Narinder Kaur and Mohinder Kaur.

3. Land in question was cultivated by Sukhchain Singh, husband of Narinder Kaur. Sukhchain Singh filed a civil suit in the year 1973 seeking a declaration that he was owner in possession of land as detailed, on the basis of an agreement dated 29.06.1965, executed by Gurdial Kaur. This suit was decreed. Land measuring 83 Kanals 5 Marlas, it is pleaded, was gifted to Sukhchain Singh in the year 1952 after his marriage. Gurdial Kaur filed a return in Form A under Rule 5 of the Punjab Land Reforms Rules, 1973, regarding her land in village Sohal and Pindri Sain. Said return was verified and Report dated 27.08.1976 was submitted by Circle Revenue Officer. Collector, Agrarian, Gurdaspur, vide order dated 16.08.1976, declared 90 Kanals of land in village Sohal and 61 Kanals 16 Marlas of land in village Pindri Sain to be surplus in the hands of Gurdial Kaur.

4. Upon appeal filed by Gurdial Kaur, Commissioner, Jalandhar Division, Jalandhar, remanded the case to Collector, Agrarian, Gurdaspur to decide the case afresh with the observations that field staff had bungled in showing the nature of land, therefore, Collector was directed to re-examine the calculations regarding land at village Sohal, location and ownership of tubewell and how Gurdial Kaur came to describe her land as *Chahi Do-Fasli* when tubewell did not belong to her. Collector, Agrarian, Gurdaspur passed order dated 13.03.1978. Relevant portion of order dated 13.03.1978 reads as under:-

“Sh. Sukhchain Singh is present, he has made statement on behalf of his mother in law, Smt. Gurdial Kaur that since the entire land under her ownership which is situated in village Sohal is being declared as surplus, they have no objection, if this is treated at the rate of barani land.

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In the light of the decision, made by predecessor on 16.8.76 and the order of Id. Additional Commissioner Jalandhar dated 21.9.77 the holding of smt. Gurdial Kaur is now determined as.

Pirdi Sain 7.05 hectares of first quality.

Village Soahl 1.55 hectares of first quality.

Land measuring 8.60 hectares of first quality of smt. Gurdial Kaur is entitled to retain, 7 hectare of the first quality land for self cultivation.

I therefore allow smt. Gurdial Kaur to attain 7 hectare of the first quality land as her permissible area and according to the statement made by her the land comprised in 8/77/1, 16 min west (1.3) (1.17) measuring 3 kanals barani land equivalent to 0.05 hectares as of and first quality land situated in village Pirdi sain and the whole of the land situated Sohal, which has already been declared surplus by the Collector, Agrarain vide his order dated 16.8.76 under Section 13 of the Act, 1972 and comprised in Rect.61/11(8-0), 12(8-0), 13(8-0), 14(8-0), 15(8-0), 16(8-0), 17(8-0), 18(8-0), 51R/19(8-0), 20min east (2-0) 65R/17(8-0), 18(8-0), measuring 90 Kanals equivalent to 1.55 hectares of first quality land declared surplus area with the land owner.”

5. It is a matter of record that order dated 13.03.1978 was accepted by Gurdial Kaur, who during her life time till her death on 04.02.2002 did not take any action to challenge the same. Her daughter Narinder Kaur died in the year 2010. Her other daughter Mohinder Kaur, however, challenged order dated 13.03.1978 by filing an appeal on 26.06.2013 before Commissioner, Jalandhar Division, Jalandhar. This appeal was dismissed being barred by limitation on 08.08.2016. Revision petition filed by Mohinder Kaur as legal heir of Gurdial Kaur, was dismissed on 30.11.2021. Aggrieved therefrom CWP-15420-2024 was filed.

6. Learned Single Bench on considering the facts and circumstances of the case dismissed the writ petition while taking note of inordinate delay in

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filing the appeal before Divisional Commissioner in the year 2013. Aggrieved therefrom present appeal has been filed.

7. Learned counsel for appellant vehemently argues that learned Single Bench has grossly erred on facts and in law while dismissing CWP-15420-2024, filed by present appellant. It is submitted that Mohinder Kaur, daughter of Gurdial Kaur was not residing in India and she came back to India on 01.05.2013 and after applying for certified copies of impugned order and other documents, appeal was filed in June, 2013. Appeal was filed before the competent authority from the date of knowledge, thus, there is no question of limitation coming to the fore. It is brought to our notice that Mohinder Kaur also passed away on 14.04.2016 and writ petition was filed by her legal heir in 2024. It is submitted that once land in question, which was declared surplus, has not been allotted to any other person or utilized, claim of legal heirs of Gurdial Kaur remained alive and should have been adjudicated on merits rather than dismiss the matter on limitation. It is submitted that in view of judgment of Hon'ble the Supreme Court in *Financial Commissioner, Haryana Vs. Kela Devi, 1980 AIR (SC)* and *Brij Lal (Dead) and others Vs. State of Haryana and others 2008 AIR (SCW) 225*, impugned order dated 11.11.2024, passed by learned Single Bench is clearly erroneous. Therefore, present appeal be allowed, impugned order dated 11.11.2024 be set aside and writ petition be allowed as prayed for.

8. Learned counsel for the State on advance notice has refuted the arguments raised and seeks dismissal of appeal.

9. We heard learned counsel for parties at length and have carefully perused the file. It is a matter of record and not denied that order dated 13.03.1978, passed by Collector, Agrarian was not subjected to any further challenge at the hands of Gurdial Kaur, who admittedly died on 04.02.2002. It was only on 26.06.2013 that appeal was filed in the name of Gurdial Kaur by

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Mohinder Kaur. This appeal was dismissed on 08.08.2016 and revision petition challenging the same was dismissed on 30.11.2021. In the interregnum Mohinder Kaur also passed away on 14.04.2016. Writ petition was filed in the year 2024, through Narinder Singh, husband of Mohinder Kaur. Financial Commissioner, Punjab has taken note of Section 18 of Punjab Land Reforms Act, 1972, which provides that the provision in regard to appeal, review and revision under the said Act so far as may be the same as provided in Sections 80, 81, 82, 83 and 84 of Punjab Tenancy Act, 1887. Section 80 of Punjab Tenancy Act, 1887 provides for appeals which may be filed with the period of limitation when the appeal lies to Collector within 30 days, 60 days when the appeal lies to Commissioner and 90 days when it lies to Financial Commissioner.

10. We have carefully perused judgments of Hon'ble the Supreme Court in ***Kela Devi's*** and ***Brij Lal's*** cases (supra), however, they do not come to the rescue of appellant in any manner. Judgment in ***Kela Devi's*** case (supra) does not deal with the question of delay in raising of claim and in ***Brij Lal's*** case (supra), Hon'ble the Supreme Court while remanding the matter to the High Court, specifically observed as under:-

“Apparently, the High Court has not taken note of this decision. It has also not recorded any finding as to whether after a long lapse of time, the action taken by the non official respondents in challenging the order in favour of the appellants disentitle them from any relief. Though the expression used in Section 18(6) of the Haryana Act is ‘at any time’ obviously it has to be a reasonable time and if action is taken to impugn the order after long passage of time, the Court has to examine whether it would be proper to grant a relief prayer for the same.”

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11. Gainful reference can be made to judgment of Hon'ble the Supreme Court in **Ajmer Kaur Vs. State of Punjab, 2004(7) SCC 381**, wherein it has been held that even if the legal heir is assumed to have a right to file an application under Section 11(5) of the Act, it cannot be said that this right can be exercised at any time at the sweet will of applicant. It has been held as under:-

“Therefore, it is reasonable to read a time limit in Sub-section (5) of Section 11. The concept of reasonable time in the given facts would be most appropriate. An application must be moved within a reasonable time.

10. The above reasoning is in consonance with the provision in sub-section (7) of Section 11 of the Act. Sub-section (7) uses the words "where succession is opened after the surplus area or any part thereof has been determined by the Collector.....". The words "determined by the Collector" would mean that the order of the Collector has attained finality. The provisions regarding appeals etc. contained in Sections 80-82 of the Punjab Tenancy Act, 1887, as made applicable to proceedings under the Punjab Land Reforms Act, 1972, show that the maximum period of limitation in case of appeal or review is ninety days.”

12. In the given factual matrix, learned counsel for appellant is unable to point out any ground which calls for interference. Land in question was admittedly mutated in favour of State Government. Argument that land in question has not been utilized till date and has not been allotted, is not substantiated by any document on record and in our considered opinion, cannot be pressed in service by appellant at this stage. There is indeed no

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justification for entertaining the appeal filed by appellant before the Commissioner after 35 years of passing of order dated 13.03.1978.

13. Learned counsel for appellant is unable to point out any infirmity, irregularity or perversity in the impugned order dated 11.11.2024, passed by learned Single Bench, which is accordingly upheld.

14. No other argument has been addressed.

15. Keeping in view the facts and circumstances as above, this appeal is accordingly dismissed with no order as to cost.

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

**(LISA GILL)**  
**JUDGE**

**(LAPITA BANERJI)**  
**JUDGE**

**15.07.2025**

*Sunil*

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