

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****135****RSA-2483-1992(O&M)****Date of decision: 14.07.2025****Punjab State & Others****...Appellant(s)****Vs.****Gurtegh Singh (through Legal Representatives)****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. M.S. Teji, AAG Punjab.

Mr. Fateh Singh Dhillon, Advocate  
for the respondent.

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**NIDHI GUPTA, J.**

Present Second Appeal has been filed by the defendants against the concurrent judgments and decrees of the learned Courts below whereby the suit filed by the plaintiff/respondent herein, for declaration that the order dated 01.12.1983 passed by the defendant No.2 and the order dismissing the appeal against the above order passed by the Appellate Authority, Jalandhar on 03.05.1984 are without jurisdiction, null and void, ineffective and no consequence; and that area comprised in Khata No.17/20; Khasra No.423, 215/424, 1228/432, 433, 434, 435, 1230/436m, 456m, 1251/457m, 459, 460, 461 1255/462 measuring 58K-14m, and Khata No.17/21; khasra No.405, 1230/436, 1239/446, 1242/447, 448/1243/449,



1234/450, 1246/452, 1249/453, 454, 456m, 1251/45 and 455 measuring 53K-7m total area 111k-17m, village kingra, (H.B.301) and entered in the jamabandi for the year 1980-81 out which plaintiff is the owner in possession in an (Agricultural Land) and does not form the subject matter of the Urban Land (Ceiling and Regulation) Act No.33 of 1976 (A Central Government Act) (hereinafter referred to as "the Act"); **and** as a consequence decree for permanent injunction restraining the defendants and their functionaries from interfering in peaceful possession of the plaintiff in the land in suit.

2. Learned counsel for the appellant-State inter alia submits that the learned Courts below were in error in decreeing the suit of the plaintiff as they failed to take into account the fact that according to Section 33(3) of the Act the order of the appellate Authority is final and cannot be challenged because of the bar created by section 42 of the Act which reads as under:-

*"Act to override other laws-the provision of this Act Shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force of any custom, usage or agreement or is decree or order of a court, tribunal or other authority."*

3. It is further submitted that as per the Master Site Plan (Ex.D6), it was clear that the plaintiff's land came in the agglomeration area. The Master Site Plan also proves that the suit land is surplus in nature. It is submitted that therefore, there was no error in the orders dated 01.12.1983 and 03.05.1984 passed by the appellant.



4. Per contra, learned counsel for the plaintiff vehemently opposes the submissions made on behalf of the appellants and submits that the Master Site Plan (Ex.D6) relied upon by the appellant was never finalised. Clear findings to this effect have been rendered by both the Courts below. This fact has not been disputed by the appellants. It is submitted that land of the plaintiff was more than 1 km away from the Municipality. As such, the impugned judgments suffer from no error.

5. As regards the argument that as per Section 33(3) of the Act, the order of the Appellate Authority is final and cannot be challenged before the Civil Court, Id. counsel for the respondent submits that the orders dated 1.12.1983 and 3.5.1984 are bad in law and therefore, the Civil Suit was maintainable. It is submitted that moreover, with the flux of time, the present appeal has been rendered infructuous as the suit property has changed hands many times over. It is accordingly prayed that the appeal be dismissed.

6. No other argument is made on behalf of the parties.

7. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit whatsoever in the submissions made on behalf of the appellant-State/ defendants.

8. It was the case of the plaintiff that the suit land as described in the head note total measuring 111K-17M situated in village Kingra (H.B. 301) as entered in the Jamabandi for the year 1980-81 of which the plaintiff was owner in possession, is agricultural land, and did not form subject matter of



the Act. To the contrary, it was the case of the appellants/defendants that as per the Master Plan of the town of Jalandhar which had been prepared by the State Government for development vide order dated 21.03.1963, the land of the plaintiff was surplus holding to the extent of 1 Kanal; and as such, land of the plaintiff had been correctly declared surplus vide order dated 01.12.1983; and the appeal of the plaintiff had been rightly dismissed by the Appellate Authority, Jalandhar vide order dated 03.05.1984. It was further stated that the land of the plaintiff was not agricultural in nature; and it fell within urban agglomeration area of Jalandhar; and therefore, it attracted the provisions of the Act. In accordance with the Act, agglomeration area is up to 1 km from the boundary of the Municipal Committee. It was admitted that although no notice under Section 18 of the Act had been issued by the defendants to the plaintiff, but the plaintiff had voluntarily filed his return in their office under Section 6 of the Act on 29.09.1976.

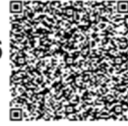
9. A bare reading of the above facts shows that the whole dispute at hand hinges on the Master Plan of the City of Jalandhar. It is pleaded case of the defendants/appellants that as per the Master Plan (Ex.D6), land of the plaintiff fell in the agglomeration area as it was surplus. However, it is not denied that in Para No.22 of the letter dated 16.01.1987 (Ex.P6) issued by the Government of Punjab (Department of Housing and Urban Development, Housing IV Branch) to the Urban Ceiling Officer, Jalandhar, Amritsar and Ludhiana, it is mentioned as follows: -



*“The master with regard to status of master plans in the urban agglomeration for the purpose of the Urban Land (Ceiling and Regulation) Act, 1976 had been under consideration for some time past and it has now been decided that the draft master plans prepared by the Urban Development department for Amritsar, Jalandhar and Ludhiana shall not be deemed to be ‘Master Plans’ within the meaning of clause (h) of section 2, and for the purpose of Urban Land Ceiling and Regulation Act, 1976 until objections invited are settled and plans finally approved.”*”

10. From the above, it is crystal clear that the purported Master Plan (Ex.D6) relied upon by the appellant-State was a mere Draft Plan which had not been finalised in terms of Section 2(g) of the Act. Thus, as per the letter dated 16.01.1987 (Ex.P6), it was admitted that there existed no Master Plan for the City of Jalandhar which had been sanctioned by the Government of Punjab till date. Furthermore, for the purposes of the Act unless the objections are invited and settled, the Master Plan cannot be finally approved. Therefore, any exercise carried out by the appellant-State in pursuance to such a Master Plan, or in the absence of a proper and legal Master Plan would be a futility. As such, the impugned action cannot be sustained.

11. As regards the argument of learned counsel for the appellants in regard to Section 33(3) of the Act, the same is also liable to be rejected as admittedly there is no bar created under the said provision in filing Civil



Suit before the Civil Court. I find merit in the reasoning of the learned trial Court to the effect that when *"...impugned order is held as void and without jurisdiction, the civil court has got the jurisdiction to entertain and try such a suit. Under issue No.3, it has been held that the impugned order dt. 1.12.83 passed by the competent authority and dated 3.5.84 passed by the Appellate Authority are null and void and without jurisdiction. As such, the civil court has jurisdiction to entertain and try the present suit. Issue No.1 is therefore, decided in favour of the plaintiff and against the defendants."*

12. Relevant findings of the learned lower Appellate Court as contained in Para 10 of the judgment dated 08.06.1992, reads as follows:-

*"10. The submissions made by the learned G.P. do not appear to be convincing particularly in view of the letter Ex. P6 dt. 16.1.87 issued by the Under Secretary Urban Development addressed to the Uran Ceiling Officer, Amritsar, Jalandhar and Ludhiana. It is clearly mentioned therein that it has been decided that printed master plan prepared by Urban Development Amritsar, Ludhiana and Jalandhar shall not be deemed to be as Master Plan within the meaning of clause H of the Section 2 and for the purpose of Urban lands (Ceiling and Regulation) Act 1976, until objection invited are settled and plans finally approved. Thus, evidently there was no master plan for Jalandhar city sanctioned by Government of Punjab so far. Thus the order passed by the competent authority on 29.9.76 Ex.P. 3(D-4) shows that the competent authority inter-alia held that the land in dispute falls within the ambit of "Master plan" Since there was no master plan for jalandhar*



*City sanctioned by the Government as per letter Ex.P.6 therefore the order passed by the competent authority cannot be up-held, and the trial court has rightly observed that the impugned orders are void, without jurisdiction and nullity. Where the orders are void and nullity then civil court has certainly got jurisdiction and the suit for declaration would lie. Findings of the trial court on all the issues are , therefore, affirmed."*

13. Learned counsel for the appellants is unable to controvert or dispute the above-said factual and legal position.
14. In view of the above, present appeal is **dismissed**.
15. Pending application(s) if any also stand(s) disposed of.

**14.07.2025**  
Sunena

**(Nidhi Gupta)**  
**Judge**

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