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

**RSA-1610-1992 (O&M)
Reserved on: 18.08.2025
Pronounced on:21.08.2025**

Jagar Singh (since deceased) through LRs
and Another

.....Appellants

VERSUS

State of Haryana and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Saket Bhandari, Advocate and
Mr. Devansh Verma, Advocate for the appellants.

Mr. Vaibhav Sharma, AAG Haryana.

MANDEEP PANNU, J

1. The present Regular Second Appeal has been filed by plaintiff No. 1, represented through his legal representatives, and plaintiff No. 2, against the respondents/defendants, challenging the impugned judgments and decrees dated 06.04.1990 passed by the learned Sub Judge First Class, Hissar, and 01.02.1992 passed by the learned Additional District Judge, Hissar.

Brief Facts

2. The brief facts of the case are that the plaintiffs/appellants instituted a suit for declaration to the effect that the order dated 10.06.1961 passed by Shri Ram Saran Das, the then Collector, Surplus Area, Hisar, whereby an area measuring 9.33 standard acres belonging to the predecessor of plaintiffs was declared surplus, was wrong, illegal, null and void and without jurisdiction. Consequential relief was sought for declaration that the mutation sanctioned on the



basis of the said order was also illegal and void. A decree of permanent injunction was also sought restraining the defendants from interfering in the possession of the plaintiffs over the suit land as detailed in the head note of the plaint.

3. It was alleged by the plaintiffs/appellants that they were owners in possession of the suit land. Originally, one Rama Nand, father of the plaintiffs, was the owner in possession of land measuring 59.43 standard acres, including the suit land. Rama Nand died about five years prior to the filing of the suit, and after his death, the plaintiffs became owners in possession. They challenged the order dated 10.06.1961 passed by the Collector declaring 9.33 standard acres as surplus.

4. The order dated 10.06.1961 was assailed on the following principal grounds:-

a) Firstly, it was contended that the name of the father of the plaintiffs was Rama Nand . He was never known by the name of Ram Singh, yet the Collector prepared the file in the name of Ram Singh. The father of the plaintiffs was never served with notice, nor did he ever receive the same even if such notice had been sent to his village Nehla. On this ground, it was argued that the proceedings were void.

b) Secondly, it was contended that Rama Nand owned 1.67 acres of Banjar Qadeem land and 1.19 acres of land recorded as *Gair Mumkin*. This area did not fall within the ambit of cultivable land, but while calculating the surplus area, this land was wrongly included.

c) Thirdly, the Collector, while declaring the surplus area, did not follow the due procedure prescribed under the Punjab Security of Land Tenures Act, 1953.



d) Fourthly, the land of Rama Nand was reduced by 2.70 acres in consolidation of holdings, but this reduction was not deducted from his total holding while declaring the surplus area.

e) Fifthly, it was urged that no Form 'F' was ever served upon Rama Nand. Moreover, Rama Nand had sold land measuring 41 bighas 15 biswas prior to the proceedings, but neither was the purchaser served with notice nor was this sale considered by the Collector.

5. On the above grounds, the proceedings declaring land as surplus were alleged to be illegal and without jurisdiction. It was further asserted that the plaintiffs had never been dispossessed, but defendants No. 2 to 8, in collusion with the Patwari Halqa, got entries effected in their favour in the revenue record.

6. Upon notice, defendant No. 1, the State of Haryana through Collector, Hisar, resisted the suit by denying the material averments. Preliminary objections were taken that the plaintiffs had no *locus standi*, that the jurisdiction of the civil court was barred, and that the suit was hopelessly barred by limitation. It was contended that the land in dispute vested in the State of Haryana after being declared surplus. The Collector was competent to pass the impugned order, which was not illegal. The mistake in recording the name of Rama Nand as Ram Singh was admitted but stated to be a clerical error. The proceedings had been initiated in the name of Rama Nand son of Jassu, his statement was recorded on 21.03.1961, and Form 'F' was duly issued to him. It was denied that any land had been wrongly included or that due procedure had not been followed. It was further stated that the



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land sold by Rama Nand had been excluded, and that after his death, the land vested in the State of Haryana and had been allotted to defendants No. 2 to 8.

7. Replication was filed by the plaintiffs denying the allegations made in the written statement.

8. Following issues were framed by the learned trial Court:-

1. Whether the order of the Collector dated 10.06.1961 in which the area of the plaintiffs measuring 9.35 std. acres was declared as surplus is wrong, illegal void ab-intio? OPP
2. Whether the plaintiffs have no locus standi to file the present suit? OPD
3. Whether the suit is bad for want of notice under Section 80 CPC? OPD
4. Whether the civil Courts have no jurisdiction under Section 26 of the Haryana Ceiling of the Land Holding Act? OPD
5. Whether the suit is barred by time? OPD
6. Whether the plaintiffs have no cause of action? OPD
7. Relief.

9. The parties led their respective evidence.

Findings of the Trial Court

10. The learned trial Court dismissed the suit of the plaintiffs vide judgment and decree dated 06.04.1990. It was held that although the initial notice had been addressed to Ram Singh son of Jassu of village Nehla, subsequent proceedings were conducted in the name of Rama Nand son of Jassu of the same village. The trial Court noted that the plaintiffs themselves admitted in cross-



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examination that there was no person named Ram Singh son of Jassu in their village, and that their father Rama Nand alone was the person concerned. DW1, the Patwari, deposed that Rama Nand had appeared before the Collector on 21.03.1961 and 15.04.1961 and made statements, which were exhibited on the file. The trial Court held that this proved beyond doubt that Rama Nand himself had participated in the proceedings.

11. On the second ground, the trial Court held that land which was *Banjar Qadeem* or *Gair Mumkin* at the commencement of the Act, if brought under cultivation prior to the declaration of surplus, was to be included in the holding of the landowner. The trial Court observed that statements of Rama Nand recorded by the Collector in 1961 showed that he was duly heard and given benefit of relevant land.

12. On the question of service of Form 'F', the trial Court observed that even if receipt of Form 'F' was not available, the registered cover was sent to the correct address, and a presumption of service arose. This fact was admitted by DW1-Kawal Nain Patwari and could not be disputed.

13. On the question of jurisdiction, the trial Court held that although the plaintiffs relied on the Full Bench decision of this Court in *State of Haryana v. Vinod Kumar, 1987 RRR 81*, the ratio of that decision was not applicable. The impugned order of the Collector could not be said to be without jurisdiction. At the most, it could be said to be irregular or illegal, but since Rama Nand had himself appeared, the Collector had the jurisdiction to decide the matter. Furthermore, the plaintiffs had themselves preferred an appeal before the Commissioner, which was dismissed on 13.01.1987. Instead of approaching the Financial Commissioner



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thereafter, they filed the present civil suit which was barred under Section 26 of the Haryana Ceiling on Land Holdings Act, 1972. The trial Court also held that the suit was barred by limitation, as the order challenged was of 1961, the appeal was dismissed in 1987, and the suit was filed much beyond three years thereafter. The plaintiffs, having slept over their rights for more than 25 years, could not now maintain the suit.

Findings of the Lower Appellate Court

14. The plaintiffs preferred an appeal before the learned Additional District Judge, Hissar, which was dismissed on 01.02.1992. The lower appellate Court affirmed the findings of the trial Court both on jurisdiction and limitation. It held that the civil Court had no jurisdiction to entertain the suit as the order of the Collector was within his competence and not without jurisdiction. It further held that the plaintiffs, having availed the statutory remedy of appeal before the Commissioner, could not bypass the provisions of the statute by filing a civil suit. The plea of limitation was also upheld.

Findings of this Court

15. Having heard learned counsel for the parties and upon perusal of the record, this Court finds no illegality in the impugned judgments of the Courts below. The arguments advanced on behalf of the appellants are a repetition of what had been urged before the Courts below. It is not disputed that Rama Nand son of Jassu was the predecessor of the appellants. The record clearly shows that he appeared before the Collector on 21.03.1961 and 15.04.1961 and made statements, which were proved by DW1- Kawal Nain Patwari, the revenue official. The plea that Rama Nand and Ram Singh were different persons is unsustainable, as there



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was no such person as Ram Singh son of Jassu in village Nehla. The reference to “Ram Singh” was merely a clerical error, and all proceedings were in fact conducted with Rama Nand .

16. The contention that Form ‘F’ was not served is also untenable. Even if the actual receipt is not on record, the registered cover having been sent to the correct address raises a presumption of due service. The trial Court rightly applied this principle.

17. The plea that *Banjar Qadeem* or *Gair Mumkin* land should have been excluded is also without merit, as the law provides that once such land is brought under cultivation before declaration of surplus, it is to be included. The Collector, after giving opportunity of hearing, declared the land surplus by a speaking order.

18. On the issue of jurisdiction, reliance was placed by the appellants upon the Full Bench decision of this Court in *State of Haryana v. Vinod Kumar (1987 RRR 81)*. However, the co-ordinate Bench of this Court in *Meghraj and others v. Mannu Phool and others, 2008 (3) RCR (Civil) 241*, while distinguished the law laid down in the *State of Haryana Vs. Vinod Kumar (supra)* has held that the civil Court’s jurisdiction is excluded when the statutory authority is competent to decide the matter and has exercised such jurisdiction. It is only where the order is without jurisdiction or nullity that a civil suit would lie. In the present case, the Collector was fully competent to declare surplus area under the Punjab Security of Land Tenures Act, and his order cannot be said to be without jurisdiction or nullity. It is relevant to mention here that plaintiff preferred an appeal against order of Collector passed on 10.06.1961 during the pendency of present civil suit which was decided during the pendency of present civil suit. Thus, plaintiff knowing well



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that the proper authority to challenge the order of Collector is Commissioner, filed the appeal before the Commission. Thus, the remedy of the appellants to challenge the orders of revenue authorities lay before the Financial Commissioner, and having not pursued the same, they cannot resort to the Civil Court.

19. The plea of limitation is equally fatal. The order of the Collector impugned by way of present suit is of the year 1961 and the present suit was filed long thereafter on 14.01.1986. The suit was hopelessly time-barred.

Conclusion

20. In view of the above, this Court finds that both the trial Court and the lower appellate Court have recorded well-reasoned findings after appreciating the evidence on record. The impugned judgments suffer from no illegality or perversity. Accordingly, the present Regular Second Appeal is dismissed

21 Pending application(s), if any, also stand disposed off.

August 21, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No