



RSA No. 2551 of 1995

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I. RSA No. 2551 of 1995(O&M)
Jagdish & Ors. ...Appellants

Versus

Raj Dulari & Ors. ...Respondents

II. RSA No. 2552 of 1995

Jagdish & Ors. ...Appellants

Versus

Dharam Paul (now deceased) through LR. & Ors. ...Respondents

Reserved on: 16.01.2026**Pronounced on: 21.01.2026****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Argued by:- Mr. S.K. Jain, Advocate,
Mr. Deepak Jain, Advocate and
Mr. Akshay Jain, Advocate
For appellants in both the appeals.

Mr. G.S. Sidhu, Advocate for
Appellant No.1 in RSA 2552-1995.

Mr. Ashok Kumar Verma, Advocate
For respondent No.1 in RSA-2551-1995 and
Respondent No.3 in RSA-2552-1995.

None for respondent No.2 to 9 in RSA-2551-1995.
Mr. Sanjiv Gupta, Sr. Advocate with
Mr. Anuj Gupta, Advocate and
Mr. Lavish, Advocate
For LR. of respondent No.1 in RSA-2552-1995.

Mr. Abhinav Singla, Advocate
For respondent No.2 in RSA-2552-1995.

Mr. Gaurav Garg, AAG Haryana.

Service of respondents No. 4,6,12 & 13 in RSA-2552-1995
Dispensed with vide order dated 30.03.2010 passed in
Connected case being IOIN-2551-1995 in RSA-2551-1995.

Service of respondents No.10,17 and 18 in RSA-2552-1995
Dispensed with vide order dated 13.03.2023.



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DEEPAK GUPTA, J.

Introductory Facts : These two Regular Second Appeals arise out of a common judgment dated 05.04.1995 passed by the learned First Appellate Court, affirming the decree dated 31.10.1991 rendered by the learned Sub Judge 1st Class, Dabwali. Since both appeals involve identical questions of law and facts, they are being disposed of by this common judgment.

2. For the sake of convenience and clarity, the facts are being noticed from Civil Suit No.463 of 1987 titled *Smt. Raj Dulari v. State of Haryana and others*, out of which RSA No.2551 of 1995 has arisen.

3.1 **Pleadings of the Plaintiff :** The plaintiff Smt. Raj Dulari pleaded that she along with the proforma defendants was in cultivating possession of the suit land as co-sharers. The land was admittedly joint and had never been partitioned. One Sahdev Singh, a co-owner of the suit land, was earlier declared a big landowner and part of his holding was declared surplus vide order dated 29.01.1963 passed by the Collector (Surplus Area), Sirsa. The gravamen of the plaintiff's case was that the surplus order dated 29.01.1963 was illegal, null and void as it had been passed when Sahdev Singh was a minor, without appointing a guardian or next friend, in violation of Order XXXII Rule 3 CPC. It was further pleaded that no notice or opportunity of hearing was afforded to Sahdev Singh, contrary to the mandatory provisions of Rule 6(6) of the Punjab Security of Land Tenure Rules, 1956. Additionally, since Sahdev Singh was only a co-sharer, his alleged surplus area could not have been declared without first separating his share as required under Section 24-A(1) of the Punjab Security of Land Tenure Act, 1953 and Section 14(1) of the Haryana Ceiling on Land Holdings Act, 1972.

3.2 It was further pleaded that Sahdev Singh sold his share in the joint land to Shiv Chandrapal Singh vide registered sale deed dated 13.04.1972. After the death of Shiv Chandrapal Singh in August 1986, the plaintiff and proforma defendants inherited the suit property as his legal heirs.

3.3 The plaintiff assailed the subsequent allotment order dated 03.08.1987, whereby the suit land was allotted to defendants No.3 to 20, on the ground that it was a mere consequence of the void surplus declaration and had



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been passed without issuing any notice to the owner or his legal heirs. On these pleadings, the plaintiff sought a decree of permanent injunction restraining the defendants from interfering with her ownership and possession.

4.1 ***Defence Set Up by the State and Allottees*** : Defendants No.1 and 2 (State of Haryana and surplus/allotment authorities) raised preliminary objections regarding jurisdiction of the Civil Court, limitation, maintainability and valuation. On merits, it was pleaded that the surplus declaration of 1963 was lawful and that upon enforcement of the ceiling law, the surplus land stood vested in the State and was validly allotted to defendants No.3 to 20 on 03.08.1987.

4.2 Defendants No.3 to 20 filed a separate written statement claiming lawful allotment and delivery of possession, and defended the validity of both orders dated 29.01.1963 and 03.08.1987.

5. ***Findings of the Trial Court*** :Upon framing necessary issues and appreciating the oral and documentary evidence, the learned Trial Court held:

- (i) Sahdev Singh was a minor on 29.01.1963 and the surplus order was passed without compliance of Order XXXII Rule 3 CPC;
- (ii) No notice or opportunity of hearing had been afforded to the landowner prior to declaring surplus area;
- (iii) The land was joint and no proceedings under Section 24-A(1) of the 1953 Act or Section 14(1) of the 1972 Act had been undertaken;
- (iv) Both impugned orders dated 29.01.1963 and 03.08.1987 were null, void and inoperative; and
- (v) The Civil Court had jurisdiction and the suit was within limitation.

Consequently, the suit was decreed on 31.10.1991.

6. ***Proceedings before the First Appellate Court*** :Notably, the State of Haryana and the competent authorities did not challenge the trial court decree. Only defendants No.3 to 20 preferred an appeal. The learned First Appellate



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Court, after re-appreciating the entire evidence, affirmed all findings of the Trial Court and dismissed the appeal vide judgment dated 05.04.1995.

7. ***Contentions in Second Appeal*** :In the present second appeals, learned counsel for the appellants primarily contended that:

- (a) Sahdev Singh was not a minor in 1963 as he had earlier filed an appeal against the surplus order of 1962;
- (b) Notice to Sahdev was either not required or must be deemed to have been served;
- (c) Surplus land vested automatically in the State upon enforcement of the ceiling law, rendering the 1972 sale as void;
- (d) The plea of minority could not be raised by vendees; and
- (e) Civil Court jurisdiction was barred and the suit was time-barred.

8. *Per contra*, learned counsel for the plaintiffs-respondents supported the concurrent findings and further pointed out that the allotment in favour of appellants had already been cancelled by the Financial Commissioner on 24.08.1990, which order had attained finality.

9. ***Analysis and Legal Reasoning*** : Having considered submissions of both the sides and perusal of record, this Court finds no infirmity in the concurrent findings recorded by both Courts below. The evidence on record clearly establishes Sahdev Singh's date of birth as 24.09.1945, rendering him a minor on 29.01.1963. The surplus order neither described him as a minor nor appointed any guardian to represent him. Such an order, passed in violation of Order XXXII Rule 3 CPC, is a nullity in the eyes of law.

10. Equally, Rule 6(6) of the Punjab Security of Land Tenure Rules mandates notice and opportunity of hearing prior to declaration of surplus area. The record is conspicuously silent regarding service of any notice or appearance on behalf of Sahdev Singh. The Full Bench judgment of this Court in ***State of Haryana v. Vinod Kumar***1986 (1) PLR 222 squarely applies, holding such notice to be mandatory.



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11. Further, Sahdev Singh was admittedly a co-sharer in a vast joint holding. Without separation of his share through proceedings under Section 24-A(1) of the 1953 Act, or Section 14(1) of the 1972 Act, no specific khasra numbers from a joint khewat could lawfully be declared surplus. The violation of these statutory provisions strikes at the very root of the surplus declaration.

12. Once the foundational surplus order dated 29.01.1963 is held to be void *ab initio*, the subsequent allotment order dated 03.08.1987 necessarily falls to the ground.

13. Limitation does not come to the aid of the appellants, as a void order can be ignored and the cause of action arose only when the allotment order was passed in 1987, which was promptly challenged.

14. The bar of Civil Court jurisdiction is equally inapplicable where statutory provisions and principles of natural justice have been violated. This position stands reaffirmed by consistent judicial precedents.

15. **Effect of Cancellation of Allotment :** Still further, it is an admitted position that the allotment in favour of the appellants was cancelled by the Financial Commissioner, Haryana, on 24.08.1990, and the said order has not been challenged till date. The appellants, therefore, have no subsisting right, title or interest in the suit land even otherwise.

16. **Conclusion :** In view of the foregoing discussion, this Court finds no substantial question of law arising for consideration. The concurrent findings of fact and law recorded by the Courts below are well-reasoned, based on proper appreciation of evidence and settled legal principles, and warrant no interference.

17. Accordingly, both Regular Second Appeals are dismissed, with no order as to costs.

(DEEPAK GUPTA)
JUDGE

21.01.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

Uploaded on : January 21, 2026