

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

**Reserved on 7th of July, 2026
Pronounced on 10th of August, 2026
Uploaded on 10th of August, 2026**

Whether only operative part of the judgment is pronounced?	No
Whether full judgment is pronounced?	Yes

CWP No.14812 of 1993 (O&M)

Labh Singh (deceased) through LRsPetitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gurinder Singh Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate and
Ms. Anupreet Kaur Gill, Advocate for the petitioner.

Mr. H.P.S. Ishar, Addl. Advocate General, Punjab.

Mr. B.P.S. Virk, Advocate for LR of respondent No.4.

PANKAJ JAIN, J.

The present writ petition filed under Article 226/227 of the Constitution of India assails orders dated 21.09.1993 passed by respondent No.2 and that dated 02.03.1987 passed by respondent No.3 whereby order dated 14.11.1985 passed by Collector, Agrarian, has been set aside.

2. Petitioner Labh Singh son of Bakhshi Singh was owner of 418 Kanals and 11 Marlas of land in village Bhedpuri. Collector vide order dated 28.07.1961 declared 9.58 standard acres of land in the hands of

petitioner as surplus under the Pepsu Tenancy and Agricultural Land Act, 1955 (hereinafter referred to as 'the 1955 Act'). The land declared surplus was allotted to Parma Nand and one Sucha Singh on 16.10.1970. Mutation No.239 of surplus land was sanctioned in favour of Government vide order dated 30.08.1974. As per *Rapat Roznamcha* dated 18.01.1971, possession of the land was taken from Labh Singh and handed-over to Parma Nand etc. Allotment in favour of Labh Singh and Parma Nand was subsequently cancelled on 15.03.1972.

3. Allottees challenged order of cancellation by filing a revision before Commissioner. The same was dismissed vide order dated 19.02.1980. While the revision petition filed by allottees and Parma Nand was pending, an application was filed for allotment of surplus area by Jagroop Singh and Kaka Singh both sons of Naurang Singh, claiming themselves to be tenants in possession of the land in dispute. Collector dismissed their application vide order dated 30.08.1982. Order of cancellation was challenged before the Commissioner in revision. The same was accepted vide order dated 16.01.1984. The matter was remanded back to Collector, Agrarian to decide the issue afresh.

4. In the interregnum, Punjab Land Reforms Act, 1972 (hereinafter referred to as 'the 1972 Act') came into force on 24.03.1973.

5. Petitioner again submitted a declaration under the 1972 Act. Vide order dated 03.04.1974, Collector ordered that there was no surplus area in the hands of the petitioner.

5.1. In proceedings before the Collector after remand pursuant to order dated 16.01.1984 *qua* claim of allottees, the petitioner produced order dated 03.04.1974 and pleaded that there was no surplus area in his hands. Thus, there was no question of allotment to be made to the tenants. Collector vide order dated 14.11.1985 (Annexure P-2) accepted the stand of the petitioner and dismissed the claim of the tenants for allotment.

6. Order dated 14.11.1985 was assailed by Mukand Singh, Puran Singh and Gurdev Kaur before the Commissioner being prospective allottees. Mukand Singh died during the pendency of the appeal. Appeal preferred by Gurdev Kaur was also dismissed vide order dated 17.02.1987. In appeal preferred by Puran Singh, Commissioner vide order dated 02.03.1987 (Annexure P-3) held that Collector has no jurisdiction to hold that there was no surplus area available for allotment. He was only required to consider claim of Kaka Singh, Jagroop Singh and Puran Singh as per the remand order passed by the Commissioner, dated 16.01.1984.

7. Against order dated 02.03.1987 (Annexure P-3), petitioner preferred a revision before the Financial Commissioner, Revenue, Punjab. The same stands dismissed vide impugned order dated 21.09.1993 upholding the order of remand passed by Commissioner, Annexure P-3.

8. Learned Senior Counsel appearing for the petitioner submits that even though land measuring 9.58 standard acres in the hands of the petitioner was declared as surplus under 1955 Act vide order dated 28.07.1961, but the petitioner continued to be in possession. The land never

vested in the State. Thus, the petitioner rightly filed fresh declaration after the Punjab Land Reforms Act, 1972 came into force. Collector vide order dated 03.04.1974 held that there was no surplus land in the hands of the petitioner. Thus, Collector, Agrarian vide order dated 14.11.1985 rightly accepted the plea raised by the petitioner. In support of his contentions, Ld. Senior Counsel relies upon ratio of law laid down in the case of **‘Ujjagar Singh (dead) by Lrs. vs. The Collector, Bhatinda’**, (1996) 5 SCC 14, **‘Bhupinder Singh vs. State of Punjab and others’**, 1980 AIR (P&H) 152 and **‘Ranjit Ram vs. The Financial Commissioner, Revenue, Punjab and others’**, 1981 PLR 492.

9. Per contra, counsel for private respondent submits that order dated 28.07.1961 passed by Collector Agrarian under 1955 Act attained finality. Possession of surplus land was taken from Labh Singh and was handed-over to the subsequent allottees. *Rapat Roznamcha* dated 18.01.1971 was recorded. The same has been placed on record by respondents No.1 to 3 along with their written statement as Annexure R-2. Even mutation No.239 *qua* surplus land was sanctioned in favour of Government by Assistant Collector 2nd Grade vide order dated 30.08.1974. The land having vested in the State, the petitioner had no right to furnish fresh declaration after 1972 Act came in-vogue. Order dated 03.04.1974 passed under 1972 Act deciding the issue of surplus land in the hands of petitioner afresh is without jurisdiction and is hit by provisions of Section 28 of 1972 Act. He submits that the land allotted in favour of Parma Nand and Sucha Singh was

cancelled on 15.03.1972 as they failed to fulfill the conditions of Utilization Scheme, 1960. After cancellation of allotment in favour of Parma Nand and Sucha Singh, process to allot the land was started afresh. Parma Nand and Sucha Singh filed revision before the Commissioner. The same was dismissed. The claim filed by Jagroop Singh and Sucha Singh claiming themselves to be '*gair marusi* on *batai* 1/3 share' was also dismissed by the Collector, Agrarian. Land was thereafter allotted to Mukand Singh, Gopal Dass, Puran Singh vide order dated 30.08.1982. Order dated 30.08.1982 was never challenged by the present petitioner. Jagroop Singh and Kaka Singh filed an appeal before the Commissioner, Patiala Division. The same was accepted vide order dated 16.01.1984 and the matter was remanded back on limited issue that Jagroop Singh and Kaka Singh should be heard before passing of order of allotment. Collector, Agrarian travelled beyond the remand order rejecting the application of allotment and setting aside Mutation No.239 *qua* surplus area declared.

9.1. He thus submits that the Commissioner rightly accepted the appeal filed by Puran Singh and set aside the order passed by Collector, Agrarian holding that the Collector travelled beyond his jurisdiction and the remand order. Order dated 02.03.1987 is in continuation of the earlier order dated 16.01.1984 passed by the Commissioner. He submits that the petitioner having never challenged the order of allotment of land to Puran Singh, cannot be allowed to turn back and claim reassessment of surplus land. To hammer-forth his contentions, Mr. Virk relies upon ratio of law

laid down in the case of '**Jain Upsara Trust Management Society vs. State of Punjab and others**', 2005(2) RCR (Civil) 800.

9.2. Counsel for the petitioner asserts that the petitioner was never dispossessed and the *Rapat Roznamcha* dated 18.01.1971 merely remained a paper transaction.

10. I have heard counsel for the parties and have carefully gone through records of the case.

11. In the considered opinion of this Court, the fate of the present *lis* hinges on answer to the following issue:

“Whether the petitioner can claim re-determination of surplus land under 1972 Act?”

12. Conceded position on record is that 9.58 standard acres of land in the hands of petitioner was declared as surplus by Collector, Agrarian, Samana vide order dated 28.07.1961. The order attained finality as the same was never challenged by the present petitioner. Chapter IV-A of the 1955 Act deals with ceiling on land and acquisition and disposal of surplus area. Section 32-E deals with vesting of surplus area in the State Government. The same reads as under:

“32-E. Vesting of surplus area in the State Government.-

Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, and subject to the provisions of Chapter IV [after the date] on which the final statement in respect of a landowner or tenant is published in the Official Gazette, then—

- (a) in the case of the surplus area of a landowner, or in the case of the surplus area of a tenant which is not included within the permissible limit of the landowner, [such area shall, on the date on which possession thereof is taken by or on behalf of the State Government, be deemed to have been acquired] by the State Government for a public purpose and all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time being in force) of all persons in such land shall be extinguished, and such rights, title and interest shall vest in the State Government free from encumbrances created by any person; and
- (b) in the case of the surplus area of a tenant which is included within the permissible limits of the landowner, the right and interest of the tenant in such area shall stand terminated:

Provided that, for the purposes of clause (a), where any land falling within the surplus area is mortgaged with possession, only the mortgagee rights shall vest in the State Government.”

13. Respondents No.1 to 3 along with their written statement have placed on record Annexure R-2, i.e., the copy of Daily Diary Report (*Rapat Roznamcha*) dated 18.01.1971. As per the same, Patwari along with Kanungo visited the spot. Labh Singh was asked as to whether he has any stay order in his favour. He having admitted that there was no such stay order, possession was taken from Labh Singh, the present petitioner, and the same was delivered to Sucha Singh, the allottee, after ploughing the field on the spot. Petitioner claims that the same were mere proceedings on paper

and in fact he was never dispossessed. Accordingly, the petitioner filed fresh declaration under the 1972 Act after it came into being on 24.03.1973.

14. The issue of possession having been taken by *Rapat Roznamcha* and the effect of Section 32-E of 1955 Act came up for consideration before the Division Bench of this Court in the case of '**Nirbhay Singh and others vs. State of Haryana and others, 2003(2) PLJ 1**'. The Division Bench observed as under:

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6. It was not necessary for the Government to take over possession of the land only through eligible tenants. As is clear from Section 32J of the Pepsu Act, such area which is acquired by the Government was placed at the disposal of the State Government for utilisation by allotment to tenants etc. Therefore, the allotment could be done even after the Government had taken over possession through one of its own functionaries. Therefore, the argument of the petitioners that tenants having refused to take possession of the land, the same could not be deemed to have vested in the Government has no force. They have not been able to show that the possession of the surplus land was to be taken up by the Government only through allottee tenants.

7. It is not the case of the petitioners that only symbolic possession was taken on 5.1.1963 and actual possession was to be taken only subsequently. It is also not their case that the possession was to be taken on behalf of the Government by the allottee tenants who having failed to do so, the possession was never actually transferred to Government. It is clearly recorded that the possession was taken by the Government on 5.1.1963. It is also reported that during consolidation, the surplus land was shown in a separate parcel. It is also reported that compensation under Section 32-G had also been determined and Balwant Singh had accepted Rs. 1665.79 as provisional compensation on 22.5.1961. Therefore,

the land would be deemed to have vested in the State Government from 5.1.1963. Thereafter, they cannot be given the benefit of the ruling in 1982 PLJ 155. The land having vested in the State Government under the Pepsu Act was clearly available to the State Government for utilisation in terms of the Haryana Act Section 12(3). The protection given in clause (a) of sub-section (1) of Section 8 is not available to the petitioners as the land had already vested in the State Government in terms of the Pepsu Law even before the passing of the Haryana Act. The petitioners having been divested of their land even before the 'appointed day' specified in the Haryana Act cannot claim any relief under the provisions of the Haryana Act. They cannot claim to be owners of the land after relinquishment by the allottees. Section 32-E of the Pepsu Act as reproduced above clearly extinguishes the right of the landowners and the question of revesting in them of the ownership on the relinquishment of the tenancy by the allottees does not arise. The land continues to vest in the State once its possession has been taken over. The petitioners have not" been able to satisfy me that actual possession of the land was not taken by the Government on 5.1.1963. Under these circumstances, I have to agree with the counsel for the State that possession of the land having been taken by the Government, the land having vested in the State with effect from 5.1.1963 no benefit would accrue to the petitioners in terms of the provisions in clause (a) of sub-section (1) of Section 8 of Haryana Act. In the light of above discussion, the revision petition is dismissed.

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15. The plea raised by learned Senior Counsel for the petitioner w.r.t. *Rapat Roznamcha* being merely a paper transaction also cannot be accepted in the light of following observations made by Supreme Court in the case of ‘**Indore Development Authority vs. Manoharlal and others**’, **AIR (2020) 8 SCC 129:**

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264. In *P.K. Kalburqi v. State of Karnataka and Ors., (2005) 12 SCC 489*, with respect of mode of possession, this Court laid down as under:

"6. Moreover, the Hon'ble Minister who passed the order of denotification of the lands in question sought to make a distinction between symbolic possession and actual possession and proceed to pass the order on the basis of his understanding of the law that symbolic possession did not amount to actual possession, and that the power to withdraw from the acquisition could be exercised at any time before "actual possession" was taken. This view appears to be contrary to the majority decision of this Court in **Balwant Narayan Bhagde v. M.D. Bhagwat**, wherein this Court observed that how such possession would be taken would depend on the nature of the land. Such possession would have to be taken as the nature of the land admits of. There can be no hard-and-fast rule laying down what act would be sufficient to constitute taking of possession of land. In the instant case the lands of which possession was sought to be taken were unoccupied, in the sense that there was no crop or structure standing thereon. In such a case only symbolic possession could be taken, and as was pointed out by this Court in the aforesaid decision, such possession would amount to vesting the land in the Government. Moreover, four acres and odd belonging to the appellant was a part of the larger area of 118 acres notified for acquisition. We are, therefore, satisfied that the High Court has not committed any error in holding that possession of the land was taken on 6-11-1985. Even the order of the Minister on which considerable reliance has been placed by the appellant indicates that possession of the lands was taken, though symbolic."

265. In *Sita Ram Bhandar Society, New Delhi* (supra) this Court held that when possession of large area of land is to be taken, then it is permissible to take possession by drawing Panchnama. A similar view was expressed in *Om Prakash Verma & Ors* (supra) which stated that:

"85. As pointed out earlier, the expression "civil appeals are allowed" carry only one meaning i.e. the judgment of the High Court is set aside and the writ petitions are dismissed. Moreover, the determination of surplus land based on the declaration of owners has become final long back. The notifications issued under Section 10 of the Act and the panchnama taking possession are also final. On behalf of the State, it was asserted that the possession of surplus land was taken on 20-7-1993 and the panchnama was executed showing that the possession has been taken. It is signed by the witnesses. We have perused the details which are available in the paper book. It is settled law that where possession is to be taken of a large tract of land then it is permissible to take possession by a properly executed panchnama. [Vide *Sita Ram Bhandar Society v. Govt. (NCT of Delhi)* (2009) 10 SCC 501.]

86. It is not in dispute that the panchnama has not been questioned in any proceedings by any of the appellants. Though it is stated that Chanakyapuri Cooperative Society was in possession at one stage and Shri Venkateshawar Enterprises was given possession by the owners and possession was also given to Golden Hill Construction Corporation and thereafter it was given to the purchasers, the fact remains that the owners are not in possession. In view of the same, the finding of the High Court that the possession was taken by the State legally and validly through a panchnama is absolutely correct and deserves to be upheld."

266. In *M. Venkatesh and Ors. v. Commissioner, Bangalore Development Authority, etc., (2015) 17 SCC 1*, a three-Judge Bench of this Court has opined that one of the modes of taking possession is by drawing panchnama. The Court observed:

"17. To the same effect are the decisions of this Court in *Ajay Krishan Shinghal v. Union of India (1996) 10 SCC 721*, *Mahavir v. Rural Institute (1995) 5 SCC 335*, *Gian Chand v. Gopala (1995) 2 SCC 528*, *Meera Sahni v. Lt. Governor of Delhi (2008) 9 SCC 177* and *Tika Ram v. State of U.P. (2009) 10 SCC 689* More importantly, as on the date of the suit, the respondents had not completed 12 years in possession of the suit property so as to entitle them to claim adverse possession against BDA, the true owner. The argument that possession of the land was never taken also needs notice only to be rejected for it is settled that one of the modes of taking possession is by drawing a panchnama which part has been done to perfection according to the evidence led by the defendant BDA. Decisions of this Court in *T.N. Housing Board v. A. Viswam (1996) 8 SCC 259* and *Larsen & Toubro Ltd. v. State of Gujarat (1998) 4 SCC 387*, sufficiently support BDA that the mode of taking possession adopted by it was a permissible mode."

267. In *Ram Singh v. Jammu Development Authority, 2017 (13) SCC 474*, this Court stated that the mode of taking possession is by drawing a Panchnama. Concerning the mode of taking possession in any other land, law to a similar effect has been laid down in *NAL Layout Residents Association v. Bangalore Development Authority, (2018) 12 SCC 400*. Certain decisions were cited with respect to other statutes regarding coalfields etc. and how the possession is taken and vesting is to what extent. Those have to be seen in the context of the particular Act. Possession comprises of various rights, thus it has to be couched in a particular statute for which we have a plethora of decisions of this Court. Hence, we need not fall back on the decisions in other

cases. The decision in Burrakur Coal Co. Ltd. (supra) held that a person can be said to be in possession of minerals contained in a well-defined mining area even though his actual physical possession is confined to a small portion. Possession in part extends to the whole of the area. The decision does not help the cause of the petitioner. Once possession has been taken by drawing a Panchnama, the State is deemed to be in possession of the entire area and not for a part. There is absolute vesting in Government with possession and control free from all encumbrances as specifically provided in Section 16 of the Act of 1894.

268. *Maguni Charan Dwivedi v. State of Orissa, 1976 (2) SCC 134*, dealt with the provision of land laws requiring actual cultivating possession with which we are not concerned here. *Sri Tarkeshwar Sio Thakur Jiu v. Dar Dass Dey & Co., 1979 (3) SCC 106*, it was again a case relating to mining. The decision is of no avail. The decision in *Ramesh Bejoy Sharma v. Pashupati Rai, (1979) 4 SCC 27* related to khas possession and physical possession of the tenant with which we are not concerned in the instant case, and the decision has no relevance so as to determine the expression. In the instant case, we are not dealing with the question, what are the rights to be conferred on the actual cultivators under revenue laws?

269. *Karanpura Development Co. v. Union of India, (1988) Supp. SCC 488*, was again a case of mines. In *Larsen & Toubro Ltd. v. State of Gujarat, (1998) 4 SCC 387*, this Court relied upon *Tamil Nadu Housing Board v. A. Viswam*, (supra), Balmokand Khatri Educational & Industrial Trust (supra) and held that drawing of Panchnama is sufficient to take possession and acquisition was held to be valid.

270. The decision in Velaxan Kumar (supra) cannot be said to be laying down the law correctly. The Court considered the photographs also to hold that the possession was not taken. Photographs cannot evidence as to whether possession was taken or not. Drawing of a Panchnama is an accepted mode of taking

possession. Even after reentry, a photograph can be taken; equally, it taken be taken after committing trespass. Such documents cannot prevail over the established mode of proving whether possession is taken, of lands. Photographs can be of little use, much less can they be a proof of possession. A person may re-enter for a short period or only to have photograph. That would not impinge adversely on the proceedings of taking possession by drawing Panchnama, which has been a rarely recognised and settled mode of taking possession.

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16. Having held that the surplus proceedings have attained finality under 1955 Act and in terms of Annexure R-2, the land vests in the State on the day the possession was taken, the judgments relied upon by learned Senior Counsel representing the petitioner are not applicable to facts of present case.

17. In view of the aforesaid facts and circumstances, this Court finds that on the day the petitioner was dispossessed in terms of *Rapat Roznamcha* dated 18.01.1971, the surplus land declared vide order dated 28.07.1961 by the Collector, Agrarian, Samana vested in State as per the provisions of 1955 Act. The proceedings having attained finality under the 1955 Act and the land having vested in the State, the petitioner has no right to re-agitate the issue of surplus land by filing a fresh declaration after 1972 Act came into force. Thus, order dated 03.04.1974 passed by Collector under the 1972 Act without considering finalization of surplus proceedings under 1955 Act, is inconsequential.

18. The issue culled out herein-above having been answered against the petitioner, this Court finds no merit in the present writ petition. The Collector is thus directed to adjudicate upon the claim of the allottees in terms of orders dated 16.01.1984 and 02.03.1987 passed by the Commissioner.

19. Resultantly, finding no merit in the present writ petition. The same is ordered to be dismissed.

20. Pending application, if any, shall also stand disposed off.

August 10, 2026

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes