

(2026) 02 P&H CK 1855

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3792 Of 1980 (O&M)

Deva Singh (Since Deceased) Through His Legal
Representative(S) And Others

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 24-02-2026

Acts Referred:

Constitution Of India, 1950 — Article 226, 227
Code Of Civil Procedure, 1908 — Section 151, Order 1 Rule 10
Punjab Security Of Land Tenure Rules, 1956 — Rule 6(6), 20C
Punjab Security Of Land Tenures Act, 1953 — Section 10, 19A
Haryana Ceiling On Land Holdings Act, 1972 — Section 8, 12, 33

Citation : (2026) 02 P&H CK 1855

Hon'ble Judges : Jagmohan Bansal, J

Bench : Single Bench

Advocate : B.S. Bedi, Madan Pal, Shamsheer Singh, Ravi Partap Singh, Rahul Sharma, Ayush Loomba

Final Decision : Dismissed

Judgement

Jagmohan Bansal, J

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of orders passed by Land Revenue Authorities.

2. Smt. Nimbo owned land in Village Bastara Tehsil and District Karnal. She was a big landowner. Collector, Karnal vide order dated 13.07.1960 declared her 82 standard acres $4\frac{3}{4}$ units as surplus land under Rule 6(6) of Punjab Security of Land Tenure Rules, 1956 (for short '1956 Rules'). Smt. Nimbo transferred her land holdings in the name of petitioners and other legal heirs by virtue of Civil Court decree and mutation to this effect was entered in the name of transferees on 17.07.1959. This decree was ignored by Authorities in view of provisions of Sections 10 & 19-A of Smt. Nimbo died on 06.01.1968 and till that date her

surplus land was not utilized by the State Government. The Authorities allotted partial surplus land of Smt. Nimbo on 16.09.1976 to private respondents. The petitioners and other legal heirs of Smt. Nimbo filed an application on 15.07.1977 before competent authority under Section 8 of Haryana Ceiling on Land Holdings Act, 1972 (for short '1972 Act') on the ground that Punjab Security on Land Tenures Act, 1953 has been repealed by Section 33 of 1972 Act. They pleaded that Smt. Nimbo died in 1968 and during her lifetime surplus area was not utilized and the petitioners after her death became small landowners and are entitled to retain the surplus land.

3. Learned counsel for the petitioners submits that land in question was declared surplus under 1953 Act. Total land declared surplus was 351 Kanals 1 Marlas. 166 Kanals 5 Marlas was allotted to respondent Nos.5 to 9 and 184 Kanals 16 Marlas was allotted to respondent Nos.11 to 66. 1972 Act came into force w.e.f. 24.01.1971. By said date, land in question was not utilized as per provisions of the Act and Rules made thereunder, thus, the petitioners being legal heirs of big landowner became entitled to land as per provisions of Section 8 read with 12 & 33 of 1972 Act. The respondents were issued Form K-6 and possession was handed over, however, there was no compliance of Rule 20-C of 1956 Rules. As per Rule 20-C, the tenant-private respondents were required to execute Qabuliyat or Patta as given in Annexure 'C' in favour of landowner before they were put in possession of the land. The respondent in its reply has conceded that Form K-6 was issued prior to 1972 Act, the possession was handed over prior to 1972 Act, however, Form US-3 and mutation was sanctioned after 1972 Act. There was no need to issue Form US-3 after 1972 Act if land was already utilized prior to 1972 Act.

4. Per contra, learned Senior counsel for respondent Nos.11, 13 to 21, 23 to 50 & 52 to 66 submits that surplus land was allotted to different persons. The respondents were allotted 184 Kanals and 16 Marlas land. The allotment was made prior to death of Smt. Nimbo. Land to respondent Nos.5 to 9 was allotted after her death. Respondents were issued Form K-6 as well as handed over possession prior to death of Smt. Nimbo. The Authorities allotted 166 Kanals 5 Marlas land to respondent Nos.5 to 9 on 16.09.1976. This prompted petitioners to file an application under Section 8 of 1972 Act before competent authority. The application was filed qua land allotted to respondents Nos. 5 to 9, however, competent authority ordered to release entire surplus land. Respondent No.5 to 9 and respondent Nos.11 to 66 filed two separate appeals before first Appellate Authority. Appeals were allowed and the petitioners challenged order of Appellate Authority before Revisionary Authority qua respondent Nos.5 to 9, meaning thereby, order of Appellate Authority qua respondent Nos.11 to 66 was conceded to. It was not further challenged, thus, attained finality. The petitioners did not make respondent Nos.11 to 66 party and writ court allowed writ petition qua entire surplus land. The review application was allowed. The land possessed by respondent Nos.11 to 66 in no way can be returned to petitioners. The respondents were issued Form K-6 as well as handed over possession. Hon'ble

Supreme Court in Krishna Kumari and another v. State of Haryana and others, (1999) 1 SCC 338 has enunciated that Qabuliyat is not relevant if possession is handed over because possession can be handed over only if Qabuliyat is executed.

5. Heard the arguments and perused the record.

6. The conceded position emerging from record is that Smt. Nimbo was a big landowner. The revenue authorities vide order dated 13.07.1960 declared her 359 Kanals and 1 Marlas land as surplus. The land was declared surplus under 1953 Act. Smt. Nimbo passed away on 06.01.1968. The Revenue Authorities allotted 184 Kanals and 16 Marlas land to respondent Nos.11 to 66 prior to her death. They were also handed over possession. The Revenue Authorities allotted 166 Kanals and 5 Marlas land to respondent Nos.5 to 9 on 16.09.1976 i.e. after the death of Smt. Nimbo Devi. The State Government introduced 1972 Act w.e.f. 24.01.1971. The petitioners being legal heirs preferred application under Section 8 of 1972 Act before Prescribed Authority seeking release of their land which was allotted to respondent Nos.5 to 9. The Prescribed Authority ordered to release entire surplus land. Respondent Nos.5 to 9 as well as 11 to 66 preferred appeals which Appellate Authority vide two separate orders dated 19.04.1979 allowed. The petitioners preferred revision before higher authorities against order of Appellate Authority qua respondent Nos.5 to 9. The Revisionary Authority dismissed revision of the petitioners. They preferred present petition before this Court against order of Revisionary Authority. They impleaded respondent Nos.5 to 9 as private respondents, however, respondent Nos.11 to 66 filed application under Order 1 Rule 10 read with Section 151 of Code of Civil Procedure, 1908 and became party to the lis. They filed review application seeking review of order dated 18.12.1996 whereby writ petition was allowed by this Court. The review application was allowed and matter was ordered to be re-heard. It is apt to mention here that order dated 18.12.1996 of this Court has attained finality qua petitioners and respondent No.5 to 11.

7. The petition qua respondent Nos.11 to 66 deserves to be dismissed on account of following reasons:

i. The petitioners preferred application under Section 8 of 1972 Act seeking release of surplus land. In the said application, there was no request with respect to land allotted to respondent Nos.11 to 66, thus, there was no question to cancel their allotment. The Revenue Authority committed grave mistake while allowing application under Section 8 of 1972 Act with respect to entire surplus land;

ii. Respondent Nos.5 to 9 and 11 to 66 preferred appeals against order of authority which allowed petitioners' application under Section 8 of 1972 Act. The Appellate Authority passed two separate orders with respect to appeals filed by respondent Nos.5 to 9 and 11 to 66. The appeals were allowed. The petitioners challenged order of Appellate Authority before Revisionary Authority qua

respondent Nos.5 to 9, meaning thereby, order qua respondent Nos.11 to 66 was accepted. The order of Appellate Authority attained finality, thus, there remained no occasion to release surplus land allotted to respondent Nos.11 to 66;

iii. Respondent Nos.11 to 66 were issued Form K-6 and were handed over possession prior to introduction of 1972 Act.

They have not placed on record Qabuliyat or Patta and claiming that as soon as possession was handed over to them, the requirement of execution of Qabuliyat stood complied with. The petitioners are claiming that in the absence of Qabuliyat, there was no compliance of Rule 20-C of 1956 Rules, thus, there was no utilization of surplus land prior to 1972 Act.

As per judgment of Supreme Court in Krishna Kumari (supra), Qabuliyat is followed by possession and where possession is handed over, requirement of Rule 20-C stands complied with. In the present case, there is no dispute with respect to possession. It was handed over to respondents prior to death of Smt. Nimbo;

iv. The petitioners in the writ petition are seeking setting aside of impugned orders and stay of their dispossession. The petitioners have intentionally not specifically pointed out orders which are impugned in the petition. They were not in the possession of land allotted to respondent Nos.11 to 66. This shows that there was no prayer qua land allotted to respondent Nos.11 to 66;

v. The petitioners have placed on record order dated 03.08.1978 passed by Prescribed Authority. They have pleaded that respondent Nos.5 to 7 filed appeal against orders of Prescribed Authority. They did not disclose that separate appeal was filed by respondent Nos.11 to 66 and it was allowed. It shows that petitioners had no grievance against the order passed by Appellate Authority in favour of respondent Nos.11 to 66; and

vi. The petitioners in Paragraph 6 of the petition have mentioned that Annexures P-2, P-3 and P-4 are illegal, void and without jurisdiction. The respondents have placed on record orders dated 19.04.1979 (Annexure R-58/1) passed by Appellate Authority. The said order has not been challenged in the writ petition. The said order was not even challenged before the Revisionary Authority, thus, for all intents and purposes, has attained finality, therefore, there is no question to allow writ petition qua entire surplus land.

8. In the wake of above discussion and findings, this Court is of the considered opinion that present petition qua respondent Nos.11 to 66 deserves to be dismissed and accordingly dismissed.

9. Pending application(s), if any, shall stand disposed of.