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**(1985) 11 P&H CK 0059**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 4206 of 1978**

Gulab Singh

APPELLANT

Vs

State of Haryana .

RESPONDENT

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**Date of Decision :** 04-11-1985

**Acts Referred:**

**Citation :** (1986) PLJ 124 : (1985) RRR 262

**Hon'ble Judges :** S.S.Kang, J

**Advocate :** S.S. Rathore, Advocate., Advocates for appearing Parties

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## Judgement

S.S. Kang, J. (Oral)

1. Gulab Singh and his son Rajinder Singh seek through this writ petition under Articles 226/227 of the Constitution of India the issuance of a writ of mandamus declaring Instructions dated 9th October 1973 (Annexure P1) issued by the State of Haryana, respondent No. 1 and section 18(7) and 18(8) of the Haryana Ceiling on Land Holdings Act (hereinafter referred to as "the Act") to be illegal, void, ultra vires and unconstitutional. It has been filed in the following circumstances :

Shri Suba Singh, grandfather of Rabinder Singh, petitioner No.2, made a will in favour of petitioner No.2 and his brother Surinder Singh, bequeathing his agricultural land to the legatees. He died on 15th June, 1972 and petitioner No. 2 acquired 56 Kanals and 12 Marlas of land under the Will. Petitioner No. 2 was born on 2nd September, 1953. The Act was enforced on 23rd December, 1972. Petitioner No. 1 filed a declaration under section 9 of the Act inter alia seeking a separate unit of land for his son (petitioner No.2) treating him to be adult when the Act came into force i.e. 23rd December, 1972. This matter is still pending consideration before the Revenue Authorities. After the admission of this writ petition, a Division Bench of this Court in Sri Chand v. The State of Haryana and others, 1978 PLR 660 has upheld the vires of subsections (7) and (8) of section 18 of the Act. Similarly, the attack of the petitioner/landowner to the validity of the Instructions (Annexure P1) is impliedly repelled by another Division Bench in Nagender Singh Chohan v. The State of Haryana & Ors., 1979 PLJ 310. It has

been held therein that the crucial date for determining the majority of a son of a landowner and his consequent eligibility for a separate unit of land is the appointed date i.e. the 24th day of January, 1971, and not the date of enforcement of the Act i.e. the 23rd of December, 1972. So, both the points raised in this writ petition stand decided against the petitioners by the abovementioned two Division Bench decisions.

2. Shri S.S. Rathore, the learned counsel for the petitioners, wanted to contend that even if the Instructions are held to be valid and the provisions of subsections (7) and (8) of section 18 of the Act are upheld, the petitioner No. 1 is still entitled to retain the land which came to him under the Will made in his favour by his father Sh.Suba Singh.

3. It is contended by Shri R.K. Verma, the learned counsel appearing for the State of Haryana, that petitioner No. 1 has filed a return and has claimed exemptions regarding the land, in dispute, and the matter is pending consideration, before the Revenue Authorities. In this situation, it is not the stage for this Court to decide upon the matter. The petitioner should pursue the remedies on this aspect of the case before the revenue Authorities.

4. With these observations, this writ petition is dismissed. No costs.