

**(2006) 02 P&H CK 0076**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 3402 of 2004**

Gurdeep Singh & Ors.

APPELLANT

Vs

Collector Land Reforms, Kapurthala & Ors.

RESPONDENT

---

**Date of Decision :** 15-02-2006

**Acts Referred:**

**Citation :** (2006) 2 CurLJ 559 : (2006) 2 ICC 759 : (2006) 1 Law Herald 831 : (2006) 1 PLJ 94

**Hon'ble Judges :** Hemant Gupta, J

**Advocate :** Mr. Rakesh Kumar, Advocate. Mr. P.N. Aggarwal, Advocate.,  
Advocates for appearing Parties

---

## Judgement

Hemant Gupta, J.

1. The land in the hands of Darshan Singh was declared surplus by the Collector Agrarian on 26.3.1975. The said surplus land was allotted to the petitioners on 12.1.1994 by the Collector. The said allotment became the subjectmatter of appeal before the Commissioner, Jalandhar Division, Jalandhar. The allotment in favour of the present petitioners was upheld vide order dated 22.11.1994. Subsequent revision before the Financial Commissioner was also dismissed on 23.7.2001. However, the claim of the petitioners in the said revision petition claiming to be tenant was remanded for examination of the Collector.

2. Thereafter, a suit has been filed by the present plaintiffs, respondent Nos. 2 to 4 herein, challenging the order passed by the Collector declaring the land surplus on the ground that they are the owners of the suit land on the basis of consent decree suffered by Darshan Singh in their favour on 11.5.1972. In the said suit, the petitioners who were allotted land in the year 1994 moved an application for impleadment in the suit as defendants in terms of Order 1 Rule 10 of the Civil Procedure Code, 1908. The learned trial Court has declined such application. The challenge in the present revision petition is to such an order passed by the learned trial Court.

3. Learned Counsel for the petitioners has contended that since the petitioners are the allottees of the surplus land their interests are vitally affected in a suit challenging the order of declaration of land as surplus therefore, they are proper and necessary parties. On the other hand, learned Counsel for the respondents has relied upon a judgment of this Court in *Ram Saran Dass and others v. The Punjab State and another*, 1972 PLJ 213 and *Financial Commissioner, Haryana and others v. Smt. Kela Devi and another*, 1980 PLJ 121 : 1980 Current Law Journal (S.C.) 34, to contend that the possession has not been delivered to the petitioners and therefore, utilisation of surplus area is not complete. Thus, the petitioners have on right to seek impleadment as defendants in the suit. Reliance is also placed on *Man Mohan Singh v. Shri Sat Narain and another*, 1971 PLR 525, wherein the principles to be taken into consideration for deciding an application under Order 1 Rule 10 of the Civil Procedure Code has been detailed.

4. After hearing the learned Counsel for the parties and going through the judgments referred I am of the opinion that the order passed by the learned trial Court declining the application for impleadment of the petitioners as defendants is not sustainable in law.

5. Without going into the question whether the suit of the kind is maintainable or not in view of the fact that the decree dated 11.5.1972 is after the appointed day and whether such decree can be pressed by the plaintiffs for avoiding order declaring the land as surplus, it is evident that the petitioners are the one who have been allotted surplus land way back in the year 1994. By virtue of allotment they have an interest in the land so as to protect their interest which had accrued to them by virtue of allotment. Even if, utilisation is not complete in terms of the Rules, the petitioners are not strangers in respect of land in dispute and therefore, the order passed by the learned trial Court is suffering from patent illegality and irregularity. In fact, in *Man Mohan Singh's* case (*supra*), this Court has held that the object of Order 1 Rule 10 of the Code would not change the scope and character of the suit by adding new parties or to enable them to litigate their own independent claims but simply to help them to avoid litigation which might otherwise become necessary. If the petitioners are impleaded as party neither the character nor the scope of the suit will change. The only effect would be that the petitioners would be able to protect their claim to protect the allotment in their favour. Consequently, the order passed by the learned trial Court is set aside. The application filed by the petitioners is allowed. The applicants are ordered to be impleaded as defendants.

6. The parties through their counsel are directed to appear before the learned trial Court on 20.3.2006 for further proceedings in accordance with law.