**(2014) 05 P&H CK 0037**

**In the Punjab And Haryana At Chandigarh**

**Case No :** C.W.P. No. 12663 of 1990 (O&M)

Remli Bai and Others APPELLANT

Vs

The State of Haryana and Others RESPONDENT

**Date of Decision :** 14-05-2014

**Acts Referred:**
Haryana Ceiling on Land Holdings Act, 1972 — Section 18(6), 8

**Citation :** (2014) 176 PLR 354

**Hon'ble Judges :** K. Kannan, J

**Bench :** Single Bench

**Advocate :** L.N. Verma, Advocates for the Appellant; Kartar Singh, D.A.G, Advocates for the Respondent

## Judgement

K. Kannan, J.—The writ petition is in relation to the orders passed by the Financial Commissioner under Annexure P/2 dated 6.8.1990 in purported exercise of powers under Section 18(6) of the Haryana Ceiling on Land Holdings Act, 1972. The revision petition had been filed by the State to revise the order already passed by the prescribed authority earlier on 10.10.1980 (Annexure P/1) directing re-determination of the holding of the legal heirs of the original landowner whose holding had not been treated as surplus either under the Punjab Security of Land Tenures Act or the Haryana Ceiling en Land Holdings Act, 1972. The prescribed authority had taken note of the fact that the landowner had died subsequent to the Act and before determination of surplus and considering the fact that the succession had opened in favour of the heirs, proceedings had been dropped and heirs being landowners would submit fresh declaration forms under the Haryana Ceiling on Land Holdings Act, 1972. These orders were sought to be revised by the Financial Commissioner under the impugned orders. The Haryana Ceiling on Land Holdings Act, 1972 sets out a procedure for determination of selection of permissible area by the landowners and requiring them to furnish declarations of the property that they would hold. Admittedly, the original landowners in the respective cases had submitted declarations but before the completion of the selection process, there had been death resulting in opening of succession and claim by heirs by inheritance. Section 8 of the Act sets out the circumstances when certain transfers and dispositions would not effect the surplus area and carves out an exceptional situation when a property was held by an heir by inheritance and to certain transfers in excess of the surplus land before specified date under the said section. Since in these cases, before declaration was made and completion of selection, death had taken place resulting in survival Of interest by inheritance, the proceedings could carry on only after receiving returns from heirs of the respective deceased. That was precisely the orders that were contemplated by the prescribed authority. There was no error in the orders for exercise of revisional powers by the Financial Commissioner. The assumption that succession would have no bearing and holding will have to be determined on the date of commencement of the Act, even when no declaration had already been made, was erroneous. The impugned orders are quashed and the writ petition is allowed.

 