2025 INSC 1122

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6990 OF 2014

THE STATE OF HARYANA ...APPELLANT(S)

VERSUS

JAI SINGH AND OTHERS ...RESPONDENT(S)

INDEX

J U D G M E N T

B.R. GAVAI, CJI.

I. BACKGROUND

1. This appeal takes exception to the judgment and final order passed by a Full Bench of the High Court of Punjab and Haryana at Chandigarh[1] in Civil Writ Petition No. 5877 of 1992 wherein the High Court partly allowed the writ petition preferred by the proprietors/landowners, (Respondents herein), challenging the amendments carried out in the Punjab Village Common Lands (Regulation) Act, 1961[2], as inserted by the Haryana Act No. 9 of 1992, published on 11th February 1992 after the assent of the President of India.

2. The facts which give rise to the present proceedings are as follows:

2.1 The State of Haryana, by way of Government Gazette Notification dated 11th February 1992 inserted sub-clause (6) to Section 2(g) of the 1961 Act along with an Explanation to

[1] Hereinafter referred to as the 'High Court'.
[2] Hereinafter referred to as '1961 Act'.

the said sub-clause, which received the assent of the President on 14th January 1992. Sub-clause (6) to Section 2(g) of the 1961 Act reads thus:

> "2. In this Act, unless the context otherwise requires-
>
> xxx xxx xxx
>
> (g) "shamilat deh" includes-
>
> xxx xxx xxx
>
> (6) lands reserved for the common purposes of a village under Section 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (East Punjab Act 50 of 1948), the management and control whereof vests in the Gram Panchayat under section 23-A of the aforesaid Act.
>
> Explanation - Lands entered in the column of ownership of record of rights as "Jumla Malkan Wa Digar Haqdaran Arazi Hassab Rasad", "Jumla Malkan" or "Mushtarka Malkan" shall be shamilat deh within the meaning of this section."

2.2 The respondent-landowners along with several other similarly-situated landowners who held land in various villages and had contributed a share of their holdings to form a common pool of land called '*shamilat deh*', which was meant exclusively for the common purposes of the village inhabitants, filed Writ Petitions before the High Court being aggrieved by the aforementioned amendment.

2.3 When the batch of Writ Petitions first came up before the High Court, upon considering the important questions of law involved in the matter, which were likely to arise in a large number of cases and affect a huge chunk of land, the Division Bench which was seized of the matter vide order dated 1st June, 1993 directed the papers of the case to be placed before the Hon'ble Chief Justice for constituting a Full Bench of the High Court for determination of the vires of the Haryana Act No. 9 of 1992. Thereafter, a Full Bench of the High Court heard the matter at length and vide judgment dated 18th January 1995, reported as ***Jai Singh and Others v. State of Haryana***[3], allowed the writ petitions and struck down the amendments carried out by way of the Haryana Act No. 9 of 1992.

2.4 The State of Haryana[4], Appellant herein, challenged the decision of the Full Bench of the High Court before this Court vide Civil Appeal No. 5480 of 1995 titled as ***State of Haryana v. Jai Singh***[5]. This Court by order dated 6th August, 1998 held that certain essentials of Article 31-A of the Constitution of

[3] CWP No. 5877 of 1992.
[4] Hereinafter referred to as 'appellant-State'.
[5] 1998 SCC OnLine SC 8

India had been overlooked and accordingly, the civil appeal came to be allowed and the matter was remanded to the High Court for reconsideration of the issues in light of Article 31-A of the Constitution of India.

2.5 Accordingly, a Full Bench of the High Court by way of the impugned judgment and final order, examined the legality of sub-clause (6) of Section 2(g) of the 1961 Act as inserted by the Haryana Act No. 9 of 1992 and partly allowed the writ petitions preferred by the respondent-landowners. The Full Bench of the High Court vide the impugned judgment and final order also issued certain consequential directions with regard to certain mutation entries made by the Revenue Authorities.

2.6 Being aggrieved thereby, the appellant-State filed a Civil Appeal No. 6990 of 2014 before this Court. Vide judgment and order dated 7th April 2022, this Court allowed the civil appeal in the following terms:

> "128.Consequently, we hold that Act 9 of 1992, the amending Act is valid and does not suffer from any vice of constitutional infirmity. The entire land reserved for common purposes by applying pro rata cut had to be utilised by the Gram Panchayat for the present and future needs of the village community and that no part of the land can be re-partitioned amongst the proprietors.

> 129. With the aforesaid discussion and findings, the appeals filed by the State and Panchayats are allowed and those filed by the proprietors are dismissed. Consequently, the writ petitions filed before the High Court shall also stand dismissed."

2.7 Seeking review of the aforementioned judgment of this Court, one Karnail Singh, being Respondent No. 28 in the present proceedings, preferred Review Petition (C) No. 526 of 2023 before this Court.

2.8 After a thorough consideration of the issue at hand, this Court vide order dated 16th May 2024 allowed the Review Petition in the following terms:

> "69. In the result, we pass the following order:
>
> The Review Petition is allowed.
>
> The judgment and order of this Court dated 7th April 2022 in Civil Appeal No. 6990 of 2014 is recalled and the appeal is restored to the file.
>
> The appeal is directed to be listed for hearing peremptorily on 7th August 2024 at Serial No.1"

2.9 After the review was allowed, we have heard the appeals afresh.

3. We have heard Shri Vinay Navare, learned Senior Counsel, appearing on behalf of the appellant-State as well as Shri Manoj Swarup, Shri Narender Hooda and Shri Rameshwar Singh Malik, learned Senior Counsel, appearing on behalf of the respondent-landowners.

II. SUBMISSIONS OF THE PARTIES

4. Shri Navare appearing for the appellant-State submitted that the impugned judgment and final order of the High Court is self-contradictory in nature. He submitted that despite holding that lands reserved for common purposes as per the consolidation scheme, whether utilized or not, would vest with the State or Gram Panchayat, the High Court directed cancellation of mutations made in favour of the appellant-state. He further submitted that in light of a categorical finding to the effect that the amended provisions were merely elucidations of the already existing provisions, the High Court ought not to have cancelled or set aside the mutations which were a necessary consequence of Haryana Act No. 9 of 1992 which amended the 1961 Act.

5. The learned Senior Counsel further submitted that the liberty granted by the High Court to the State or Gram

Panchayat to file an application for eviction or title suit for those lands which had been earmarked for common purposes, would run contrary to the very purpose and objective of the Haryana Act No. 9 of 1992 and would introduce the same mischief which the said Act sought to do away with. He, therefore, submitted that the impugned judgment and final order being self-contradictory and erroneous to the above extent deserves to be set aside and/or modified.

6. Shri Navare further submitted that the lands contributed by the respondent-landowners on pro-rata basis during consolidation proceedings as carried out under the East Punjab Holdings (Consolidation And Prevention of Fragmentation) Act, 1948[6] would fall within the definition of '*shamilat deh*' under the Haryana Act No. 9 of 1992. Such lands, he submitted, would vest in the State or Gram Panchayat, irrespective of whether they have been reserved for common purposes or not. He submitted that vesting of such lands in the State or Gram Panchayat is complete as soon as the consolidation scheme attains finality and once so vested,

[6] Hereinafter referred to as the 'Consolidation Act of 1948'.

the proprietors lose all rights and interests. Shri Navare further submitted that once the land has been recorded as '*shamilat deh*', there would be no need to prove as to whether it had been earmarked or used for common purposes.

7. Shri Navare submitted that since the Haryana Act No. 9 of 1992 did not exclude unutilized lands i.e. *bachat* lands, the said lands could not be given back to the respondent-landowners. He submitted that before the High Court, the only claim raised by the respondent-landowners was qua land reserved for the income of the Gram Panchayat as well as land which had been reserved for common purposes but had not been utilized. The learned Senior Counsel submitted that all such lands which had been reserved for common purposes vested with the Gram Panchayat and further that, the concomitant Rule 16(ii) of the Consolidation Rules would cover all such lands which had been taken over for common purposes as per the consolidation scheme under the Consolidation Act of 1948. Therefore, Shri Navare submitted, the High Court had erred in holding that *bachat* lands not reserved for common use would remain with the proprietors in proportion to their contribution.

8. Shri Navare further submitted that Haryana Act No. 9 of 1992 did not alter or affect the rights of the respondent-landowners, as their ownership had already been extinguished under the Consolidation Act of 1948 and its concomitant Rules upon the finalization of the consolidation proceedings thereunder. He submitted that the Haryana Act No. 9 of 1992, enacted as an agrarian reform to strengthen Gram Panchayat control, is merely clarificatory and does not divest proprietors of any ownership rights and therefore, it would not be hit by the rigours of Articles 31-A and 300A of the Constitution of India.

9. With regard to the decision of this Court *in* ***Bhagat Ram and Others v. State of Punjab and Others***[7], Shri Navare submitted that the judgment supports the proprietors only to the extent that land cannot be reserved solely to generate income for the Gram Panchayat. However, he submitted that this Court deliberately refrained from ordering the return of land to proprietors to avoid disrupting the consolidation scheme under the Consolidation Act of 1948. He submitted

[7] 1966 SCC OnLine SC 264 : (1967) 2 SCR 165

that returning *bachat* land to the proprietors would cause fragmentation and reverse the landholding structure to a pre-1948 scenario, which the Act expressly prohibits. Therefore, he submitted, what the Supreme Court consciously avoided in ***Bhagat Ram*** (supra) could not have been directed by the High Court. To substantiate his contention, Shri Navare placed reliance on the decisions of this Court in the cases of ***Sarat Chandra Mishra and Others. v. State of Orissa and Others***[8], ***Ramesh Chand Daga v. Rameshwari Bai***[9] and ***Gajraj Singh and Others v. State of U.P. and Others***[10] to submit that a judgment cannot be read as a statute and it may be presumed that the same has been rendered in accordance with law.

10. In the result, Shri Navare submitted that the civil appeals deserve to be allowed and the High Court's order ought to be set aside only to the extent that it directs the cancellation of mutations made in the appellant's favour.

[8] (2006) 1 SCC 638
[9] (2005) 4 SCC 772
[10] (2001) 5 SCC 762

11. *Per contra*, Shri Manoj Swarup, learned Senior Counsel, appearing on behalf of some of the respondent-landowners submitted that the concerned land has been in their possession and under their cultivation from the very inception. As such, he submitted that, the respondent-landowners are the absolute owners of the land and they could not have been deprived of their proprietary rights without acquisition of the land through due process of law.

12. Shri Swarup submitted that the insertion of Clause 2(g)(6) with the Explanation in the 1961 Act, by way of the Haryana Act No. 9 of 1992, arbitrarily expanded the definition of '*shamilat deh*'. He submitted that the land of the respondent-landowners was *neither* reserved under the provisions of Section 18 of the Consolidation Act of 1948 for utilization for common purposes *nor* used for common purposes, but remained under their cultivation making them the absolute owners of the land. He, therefore, submitted that the amendment amounts to compulsory acquisition without compensation, thereby violating Article 31-A of the Constitution of India.

13. He further submitted that the unutilized land i.e. *bachat* land ought to be revested with the respondent-landowners as such land does not fall within the ambit of '*shamilat deh*'. He submitted that the management and control of the *bachat* land would also not vest with the Gram Panchayat under the provisions of Sections 18 and 23-A of the Consolidation Act of 1948 and Rule 16(ii) of the Concomitant Consolidation Rules. The learned Senior Counsel further clarified that before the High Court, the respondent-landowners had only joined issues with regard to unutilized lands, since after an exchange of affidavits, the appellant-State had taken a similar stance. He, therefore, submitted that since the land has neither been utilized nor reserved for any specific common purpose, it ought to revest with the proprietors. To bolster his submission, Shri Swarup placed reliance on the judgment of this Court in the case of ***Bhagat Ram*** (supra) which has been relied upon by the High Court in the impugned judgment and final order.

14. Even insofar as the direction of the High Court with regard to vesting of utilized or unutilized land with the Gram Panchayat is concerned, Shri Swarup submitted that it has been set aside by a judgment passed by a 5-Judge Bench of

the High Court dated 22nd July 2016 in ***Suraj Bhan and Others v. State of Haryana and Another*** in CWP No. 314 of 2001, which has otherwise upheld the judgment of the Full Bench impugned before us, *in toto.*

15. Shri Swarup, in the result, submitted that decision of the High Court be upheld and the civil appeals be dismissed with costs.

16. Shri Narender Hooda, learned Senior Counsel appearing on behalf of some of the respondent-landowners submitted that though the right to property is no more a fundamental right, it is still a constitutional right. It is submitted that in view of the law laid down by this Court in the cases of ***Ajit Singh v. State of Punjab and Another***[11] and ***Bhagat Ram*** (supra), the land cannot be acquired where the beneficiary is the State. He submits that where the reservation of land is for the purpose of generating revenue for the State, it constitutes taking away the land for the State and attracts protection granted under the second proviso to Article 31A of the Constitution mandating payment of compensation at market

[11] **1966 SCC OnLine SC 192 : (1967) 2 SCR 143**

value. It is, therefore, submitted that the High Court has rightly considered this legal position and held that the lands which are not earmarked for a particular purpose would revest in the proprietors.

17. Shri Hooda further submitted that the Constitution Bench of this Court in the case of ***K.T. Plantation Private Limited and Another v. State of Karnataka***[12] has reaffirmed the legal position that even after the deletion of Articles 19(1)(f) and 31(2) of the Constitution of India, the deprivation of a property of a citizen must conform to foundational constitutional requirements. He submits that the Constitution Bench of this Court has clearly held that the public purpose is a precondition for deprivation of a person from his property under Article 300-A and that the State has to justify both - the public purpose as well as compensation for such deprivation.

18. He submits that the Constitution Bench has further held that the statutes authorizing deprivation of property are amenable to judicial review, and must satisfy constitutional

[12] **(2011) 9 SCC 1**

standards of non-arbitrariness, proportionality, and the rule of law.

19. Shri Hooda further submitted that the Constitution Bench held that though a full market value compensation may be no longer a constitutional mandate, the obligation to pay compensation - whether nominal, partial or otherwise - still exists. He further submitted that such a compensation has to be "just, fair and reasonable" within the meaning of Articles 14 and 21 of the Constitution of India.

20. Shri Hooda further submitted that this Court in the Constitution Bench Judgments in the cases of ***Ranjit Singh and Others v. State of Punjab and Others***[13], ***Ajit Singh*** (supra) and ***Bhagat Ram*** (supra) on an interpretation of the Consolidation Act of 1948, in unequivocal terms, held that the lands whose possession was never given in implementation of the Consolidation Scheme do not vest in the Gram Panchayat but continue to belong to the original proprietors. It has further been held that such lands which have not been earmarked for any specific purpose under the Scheme, which are commonly

[13] **1964 SCC OnLine SC 182 : (1965) 1 SCR 82**

known as *bachat* lands, must revert to the proprietors. He submitted that the doctrine of *stare decisis,* when the aforesaid legal position has been in vogue for a long period, would not permit the same to be reversed.

21. Shri Hooda further submitted that the Consolidation proceedings in the State of Haryana happened in and around 1960. It is submitted that, over the past 65 years, the possession of the *bachat* land remained undisturbed, despite earmarking, with the proprietors. He submitted that in some instances, the original proprietors remained in settled occupation. In many cases, bona fide transactions have taken place through registered sale deeds. In several other instances, statutory authorities have effected partitions between joint owners and/or vendees. It is submitted that these persons have invested labour, capital and generations of time on the footing that their possession was lawful and secure. He submitted that, disturbing such long-settled rights would be manifestly unjust. He, therefore, submits that it would be just and necessary in the interests of justice that even if such *bachat* lands are earmarked for some purposes but their possession has not been taken for long years, they need to be

protected, and such lands need to be revested in the proprietors.

22. Shri Rameshwar Singh Malik, learned Senior Counsel appearing on behalf of some of the other respondent-proprietors submitted that, the case of the respondent-proprietors is squarely covered by the decisions of this Court in the cases of ***Ajit Singh*** (supra), ***Bhagat Ram*** (supra) and ***State of Punjab v. Gurjant Singh***[14].

23. In light of the same, he submitted that the civil appeals be dismissed and the States of Punjab and Haryana and the UT of Chandigarh be directed to re-partition the *bachat* land amongst the respondent-proprietors in the same proportion in which they had contributed their land during the consolidation proceedings.

III. CONSIDERATIONS

(a) Consideration of the Constitution Bench Judgments of this Court in *Ranjit Singh* (supra), *Ajit Singh* (supra) and *Bhagat Ram* (supra)

24. For considering the controversy, a reference to three Constitution Bench Judgments of this Court would be

[14] **Civil Appeal Nos. 5709-5714 of 2001**

necessary.

25. The first one is in the case of ***Ranjit Singh*** (supra). In the said case, the Constitution Bench of this Court was concerned with the consolidation proceedings in which portions of land from those commonly owned by the appellants therein as proprietors, had been reserved for the village Panchayat and handed over to it for diverse purposes; whereas, other portions had been reserved either for non-proprietors or for the common purposes of the villages. In the said case, in the village Virk Kalan, 270 kanals and 13 marlas had been given to the village Panchayat for management and realization of income, even though the ownership was still shown in village papers as '*shamilat deh*' in the names of the proprietors; 10 kanals and 3 marlas had been reserved for *abadi* to be distributed among persons entitled thereto, and 3 kanals and 7 marlas had been reserved for manure pits. Similarly, in village Sewana, certain lands were set apart for the village Panchayat for extension of the *abadi* and to enable grants of certain land to be made to each family of non-proprietors and certain lands had been reserved for a primary school and some more for a *phirni*. Similarly, in village Mehnd, land had been reserved for the

village Panchayat, a school, tanning ground, hospital, cremation ground and for non-proprietors. The proprietors were not paid compensation for the lands and as such, taking away and allotment of the lands was the subject matter of challenge in those appeals in the said case.

26. The appeals before this Court were heard and closed for judgment on 27th April 1964. The judgment had to be postponed till after the vacation. However, before the Court could reassemble after the vacation on 20th July 1964, the Constitution (Seventeenth Amendment) Act, 1964 received the assent of the President i.e. on 20th June, 1964. Vide the said Amendment, a new sub-clause (a) in clause (2) of Article 31-A was substituted retrospectively and added a proviso to clause (1). The appeals were set down to be mentioned on July 20/23, 1964, and counsel were asked if, in view of the amendment, they wished to say anything. However, neither of parties wished to argue. The appeals were thus decided on the old arguments, though it was clear to the Court that the amendment of Article 31-A, which had a far-reaching effect, and it must have affected one or other of the parties. The Constitution Bench upheld the judgment of the High Court

which had held that the transfer of '*shamilat deh'* owned by the proprietors to the village Panchayat for the purposes of management and the conferral of proprietary rights on non-proprietors in respect of lands in *abadi deh* was not *ultra vires* of Article 31 inasmuch as, no compensation was payable.

27. It must be noted that the judgment of the High Court was rendered by interpreting Article 31-A as it existed prior to the Constitution (Seventeenth Amendment) Act, 1964. This Court though called upon the parties to address the Court on the effect of the Constitution (Seventeenth Amendment) Act, 1964, no arguments were advanced. As such, in ***Ranjit Singh*** (supra), this Court did not have the occasion to consider the effect of the Constitution (Seventeenth Amendment) Act, 1964 by which the second proviso was added to Article 31-A of the Constitution of India. In that view of the matter, the judgment of the Constitution Bench of this Court in ***Ranjit Singh*** (supra) will not have a bearing on the present matter.

28. In the case of ***Ajit Singh*** (supra), again the challenge was to the scheme made under the provisions of the Consolidation Act of 1948. One of the grounds raised before the High Court

as well as this Court was that the compensation must be paid to the appellant for the land reserved in the scheme for various purposes in accordance with the second proviso to Article 31-A(1) inserted by the Constitution (Seventeenth Amendment) Act, 1964.

29. It will be relevant to refer to the following paragraphs in ***Ajit Singh*** (supra):

> "**6.** Coming now to the third point raised by Mr Iyenger, we may first mention that it was held by this Court in *Ranjit Singh* v. *State of Punjab* [(1965) 1 SCR 82] that the Act was protected from challenge by Article 31-A. It is necessary to set out the relevant constitutional provisions. The relevant portion of Article 31-A reads as under:
>
> > "31-A. (1) Notwithstanding anything contained in Article 13, no law providing for—
> >
> > (*a*) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights…….
> >
> > shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31:
> >
> > Provided that * * *
> >
> > Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his

personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2)(*b*) the expression 'rights' in relation to an estate shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, *raiyat, under-raiyat* or other intermediary and any rights or privileges in respect of land revenue."

Relevant portions of Articles 19 and 31 may also be set out because the learned counsel have laid stress on the language employed therein.

"19. (1) All citizens shall have the right—

(*f*) to acquire, hold and dispose of property.

31. (1) No person shall be deprived of his property save by authority of law.

(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be

> determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.
>
> (2-A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property."

7. It would be noticed that Article 31-A(1)(*a*) mentions four categories; first acquisition by the State of an estate; second, acquisition by the State of rights in an estate; third, the extinguishment of rights in an estate, and, fourthly, the modification of rights in an estate. These four categories are mentioned separately and are different. In the first two categories the State "acquires" either an estate or rights in an estate. In other words, there is a transference of an estate or the rights in an estate to the State. When there is a transference of an estate to the State, it could be said that all the rights of the holder of the estate have been extinguished. But if the result in the case of the extinguishment is the transference of all the rights in an estate to the State, it would properly fall within the expression "acquisition by the State of an estate". Similarly, in the case of an acquisition by the State of a right in an estate it could also be said that the rights of the owner have been modified since one of the rights of the owner has been acquired.

8. It seems to us that there is this essential difference between "acquisition by the State" on the one hand and "modification or extinguishment of rights" on the other that in the first case the beneficiary is the State

while in the latter case the beneficiary of the modification or the extinguishment is not the State. For example, suppose the State is the landlord of an estate and there is a lease of that property, and a law provides for the extinguishment of leases held in an estate. In one sense it would be an extinguishment of the rights of a lessee, but it would properly fall under the category of acquisition by the State because the beneficiary of the extinguishment would be the State.

9. Coming now to the second proviso to Article 31-A, it would be noticed that only one category is mentioned in the proviso, the category being "acquisition by the State of an estate". It means that the law must make a provision for the acquisition by the State of an estate. But what is the true meaning of the expression "acquisition by the State of an estate". In the context of Article 31-A, the expression "acquisition by the State of an estate" in the second proviso to Article 31-A(1) must have the same meaning as it has in clause (1)(*a*) to Article 31-A. It is urged on behalf of the respondents before us that the expression "acquisition by the State of any estate" in Article 31-A(1)(*a*) has the same meaning as it has in Article 31(2-A). In other words, it is urged that the expression "acquisition by the State of any estate" means transfer of the ownership or right to possession of an estate to the State. Mr. Iyengar on the other hand urges that the expression "acquisition by the State" has a very wide meaning and it would bear the same meaning as was given by this Court in *State of West Bengal* v. *Subodh Gopal Bose* [(1964) SCR 587] , *Dwarkadas Shrinivas of Bombay* v. *Sholapur Spinning & Weaving Co. Ltd.* [(1953) 2 SCC 791 : (1954) SCR 674] *Saghir Ahmad* v. *State of U.P.* [(1955) 1 SCR 707] and *Bombay Dyeing and Manufacturing Co. Ltd.* v. *State of Bombay* [(1958) SCR 1122] . In these cases this Court had given a wide meaning to the word "acquisition". In *Dwarkadas Shrinivas of Bombay* v. *Sholapur Spinning & Weaving Co.*

Ltd. [(1953) 2 SCC 791 : (1954) SCR 674] Mahajan, J., observed at p. 704 as follows:

> "The word 'acquisition' has quite a wide concept, meaning the procuring of property or the taking of it permanently or temporarily. It does not necessarily imply the acquisition of legal title by the State in the property taken possession of."

He further observed at p. 705:

> "I prefer to follow the view of the majority of the Court, because it seems to me that it is more in consonance with juridical principle that possession after all is nine-tenths of ownership, and once possession is taken away, practically everything is taken away, and that in construing the Constitution it is the substance and the practical result of the act of the State that should be considered rather than its purely legal aspect."

Bose, J., observed at p. 734 as follows:

> "In my opinion, the possession and acquisition referred to in clause (2) mean the sort of 'possession' and 'acquisition' that amounts to 'deprivation' within the meaning of clause (1). No hard and fast rule can be laid down. Each case must depend on its own facts. But if there is substantial deprivation, then clause (2) is, in my judgment, attracted. By substantial deprivation I mean the sort of deprivation that substantially robs a man of those attributes of enjoyment which normally accompany rights to, or an interest in, property. The form is

unessential. It is the substance that we must seek."

10. Let us now see whether the other part of the second proviso throws any light on this question. It would be noticed that it refers to ceiling limits. It is well known that under various laws dealing with land reforms, no person apart from certain exceptions can hold land beyond a ceiling fixed under the law. Secondly, the proviso says that not only the land exempted from acquisition should be within the ceiling limit but it also must be under personal cultivation. The underlying idea of this proviso seems to be that a person who is cultivating land personally, which is his source of livelihood, should not be deprived of that land under any law protected by Article 31-A unless at least compensation at the market rate is given. In various States most of the persons have already been deprived of land beyond the ceiling limit on compensation which was less than the market value. It seems to us that in the light of all the considerations mentioned above the words "acquisition by the State" in the second proviso do not have a technical meaning, as contended by the learned counsel for the respondent. If the State has in substance acquired all the rights in the land for its own purposes, even if the title remains with the owner, it cannot be said that it is not acquisition within the second proviso to Article 31-A.

11. But the question still remains whether even if a wider meaning is given to the word "acquisition" what has been done by the scheme and the Act is acquisition or not within the meaning of the second proviso. In other words, does the scheme only modify rights or does it amount to acquisition of land? The scheme is not part of the record, but it appears that 89B-18B-11B (Pukhta) of land was owned by the Gram Panchayat prior to consolidation, which was used for common purposes. Some further area was reserved for common purposes as khals, paths, khurrahs, panchayat ghars and schools etc. after

> applying cut upon the rightholders on pro-rata basis. It does not appear that any land, apart from what was already owned by the Panchayat, was reserved for providing income to the Panchayat. Therefore, in this case we are not concerned with the validity of acquisition for such a purpose."

30. A perusal of the aforesaid paragraphs would reveal that in paragraph 6, this Court reproduced the provisions of Article 31-A, as amended.

31. In paragraph 7, this Court carved out 4 categories covered by Article 31-A as under:

(i) acquisition by the State of an estate;

(ii) acquisition by the State of rights in an estate;

(iii) the extinguishment of rights in an estate; and

(iv) the modification of rights in an estate.

32. Analysing the said provision, the Constitution Bench held that, in the first two categories, the State "acquires" either an estate or rights in an estate i.e., there is a transference of an estate or the rights in an estate to the State. The Constitution Bench held that when there is a transference of an estate to the State, it could be said that all the rights of the holder of the estate have been extinguished. It further held that, if the result

in the case of the extinguishment is the transference of all the rights in an estate to the State, it would properly fall within the expression "acquisition by the State of an estate". It further held that, in the case of an acquisition by the State of a right in an estate it could also be said that the rights of the owner have been modified since one of the rights of the owner has been acquired.

33. In paragraph 8, the Constitution Bench carved out the difference between "acquisition by the State" on the one hand and "modification or extinguishment of rights" on the other. It held that in the first case, the beneficiary is the State while in the latter case the beneficiary of the modification or the extinguishment is not the State.

34. In paragraph 9, this Court recorded that in the second proviso to Article 31-A, only one category is mentioned i.e., "acquisition by the State of an estate". It observed that the law must make a provision for the acquisition by the State of an estate. It went on to analyze the true meaning of the expression "acquisition by the State of an estate". It was sought to be urged before this Court, that the expression "acquisition by the

State" has a very wide meaning and it would bear the same meaning as was given by this Court in a catena of judgments.

35. In paragraph 10, this Court recorded that the second proviso to Article 31-A refers to ceiling limits. It was further observed that the proviso provides that, not only the land exempted from acquisition should be within the ceiling limit but it also must be under personal cultivation. The Court held that the underlying idea of this proviso was that a person who is cultivating land personally, which is his source of livelihood, should not be deprived of that land under any law protected by Article 31-A unless at least compensation at the market rate is given. The Court held that the words "acquisition by the State" in the second proviso cannot be given a technical meaning, as was contended on behalf of the State. It held that, if the State has in substance acquired all the rights in the land for its own purposes, even if the title remains with the owner, it cannot be said that it is not acquisition within the second proviso to Article 31-A.

36. In paragraph 11, this Court recorded the facts in the said case. It recorded that some of the lands were owned by the

Gram Panchayat prior to consolidation, which was used for common purposes. Some further area was reserved for common purposes as khals, paths, khurrahs, panchayat ghars and schools etc., after applying a cut upon the rightholders on pro-rata basis. It observed that apart from what was already owned by the Panchayat, no other land was reserved for providing income to the Panchayat. As such, the Court was not concerned with the validity of acquisition for such a purpose.

37. It will also be relevant to refer to the following paragraphs of the said judgment in ***Ajit Singh*** (supra):

> "**12.** Rule 16 (*ii*) of the Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949, provides:
>
> > "In an estate or estates where during consolidation proceedings there is no *shamlat Deh* land or such land is considered inadequate, land shall be reserved for the Village panchayat and for other common purposes, under Section 18(*c*) of the Act, out of the common pool of the village at a scale prescribed by the Government from time to time. Proprietary rights in respect of land so reserved (except the area reserved for the extension of *abadi* of proprietors and non-proprietors) shall vest in the proprietary body of estate or estates concerned and it shall be entered in the column of

ownership of record of rights as (*Jumla Malkan wa Digar Haqdaran Arazi Hasab Rasad Raqba*). The management of such land shall be done by the Panchayat of the estate or estates concerned on behalf of the village proprietary body and the panchayat shall have the right to utilise the income derived from the land so reserved for the common needs and benefits of the estate or estates concerned."

It will be noticed that the title still vests in the property body (sic), the management of the land is done on behalf of the proprietary body, and the land is used for the common needs and benefits of the estate or estates concerned. In other words a fraction of each proprietor's land is taken and formed into a common pool so that the whole may be used for the common needs and benefits of the estate, mentioned above. The proprietors naturally would also share in the benefits along with others.

13. In *Attar Singh* v. *State of U.P.* [(1959) Supp 1 SCR 928 at p 938] Wanchoo J., speaking for the Court, said this of the similar proviso in a similar Act, namely, the U.P. Consolidation of Holdings Act (U.P. Act 5 of 1954) as amended by the U.P. Act 16 of 1957:

"Thus the land which is taken over is a small bit, which sold by itself would hardly fetch anything. These small bits of land are collected from various tenureholders and consolidated in one place and added to the land which might be lying vacant so that it may be used for the purposes of Section 14(1)(*ee*). A compact area is thus created and it is used for the purposes of the tenure-holders themselves and other villagers.

> Form CH-21 framed under Rule 41(*a*) shows the purposes to which this land would be applied, namely, (*1*) plantation of trees, (*2*) pasture land, (*3*) manure pits, (*4*) threshing floor, (*5*) cremation ground, (*6*) graveyards, (*7*) primary or other school, (*8*) playground, (*9*) Panchayatghar, and (*10*) such other objects. These small bits of land thus acquired from tenure-holders are consolidated and used for these purposes, which are directly for the benefit of the tenure-holders. They are deprived of a small bit and in place of it they are given advantages in a much larger area of land made up of these small bits and also of vacant land."
>
> In other words, a proprietor gets advantages which he could never have got apart from the scheme. For example, if he wanted a threshing floor, a manure pit, land for pasture, khal etc. he would not have been able to have them on the fraction of his land reserved for common purposes.

14. Does such taking away of property then amount to acquisition by the State of any land? Who is the real beneficiary? Is it the Panchayat? It is clear that the title remains in the proprietary body and in the revenue records the land would be shown as belonging to "all the owners and other right holders in proportion to their areas". The Panchayat will manage it on behalf of the proprietors and use it for common purposes; it cannot use it for any other purpose. The proprietors enjoy the benefits derived from the use of land for common purposes. It is true that the non-proprietors also derive benefit but their satisfaction and advancement enures in the end to the advantage of the proprietors in the form of a more efficient agricultural community. The Panchayat as such does not enjoy any benefit. On the facts of this

> case it seems to us that the beneficiary of the modification of rights is not the State, and therefore there is no acquisition by the State within the second proviso.
>
> **15.** In the context of the 2nd proviso, which is trying to preserve the rights of a person holding land under his personal cultivation, it is impossible to conceive that such adjustment of the rights of persons holding land under their personal cultivation in the interest of village economy was regarded as something to be compensated for in cash."

38. In paragraph 12, after reproducing Rule 16(ii) of the Consolidation Rules, this Court observed that the title still vests in the proprietary body. However, the management of the land is done on behalf of the proprietary body, and the land is used for the common needs and benefits of the estate or estates concerned. It further held that a fraction of each proprietor's land is taken and formed into a common pool so that the whole area may be used for the common needs and benefits of the estate, mentioned above. It further held that the proprietors naturally would also share in the benefits along with others.

39. In paragraph 14, this Court held that it was clear that the title remains in the proprietary body and in the revenue records the land would be shown as belonging to "all the

owners and other right holders in proportion to their areas". This Court held that the Panchayat would manage it on behalf of the proprietors and use it for common purposes and that it cannot use it for any other purpose. This Court held that the proprietors also enjoy the benefits derived from the use of land for common purposes. It observed that the non-proprietors also derive benefit but their satisfaction and advancement enures in the end to the advantage of the proprietors in the form of a more efficient agricultural community. The Panchayat as such does not enjoy any benefit. This Court held, in light of the facts of the said case, that the beneficiary of the modification of rights was not the State, and therefore there was no acquisition by the State within the meaning of the second proviso.

40. In paragraph 15, this Court, referring to second proviso, held that it is impossible to conceive that such adjustment of the rights of persons holding land under their personal cultivation in the interest of village economy was regarded as something to be compensated for in cash.

41. It can thus be seen that in ***Ajit Singh*** (supra), this Court was considering the portion of lands which was taken from the proprietors; formed into a common pool and used for common needs and benefits of the estate or estates concerned. It was held that the said land could not be used for any other purpose. It has further affirmed that the proprietors also enjoy the benefits derived from the use of land for common purposes.

42. It is further pertinent to note that in ***Ajit Singh*** (supra), this Court held that the words "acquisition by the State" in the second proviso cannot be given a technical meaning. It has been held that if the State has in substance acquired all the rights in the land for its own purposes, even if the title remains with the owner, it cannot be said that it is not acquisition within the ambit of the second proviso to Article 31-A.

43. Justice M. Hidayatullah (as his Lordship then was) in his minority judgment disagreed with the majority view. He held that when the State acquires almost the entire bundle of rights, it is acquisition within the meaning of the second proviso and compensation at market rates must be given.

44. The third judgment of the Constitution Bench of this Court is in the case of ***Bhagat Ram*** (supra), which would be the most relevant for the present purpose.

45. It will be relevant to note that judgments in both ***Ajit Singh*** (supra) and ***Bhagat Ram*** (supra) were delivered on the very same day.

46. In the said case i.e. ***Bhagat Ram*** (supra), the Court was considering the question, as to whether the reservation of land for income of the Panchayat is acquisition of land by the State within the ambit of the second proviso to Article 31-A?

47. It will be relevant to refer to the following observations of the Constitution Bench of this Court in ***Bhagat Ram*** (supra) in the judgment delivered by S.M. Sikri, J (as his Lordship then was):

> "**2.** The first question that arises is whether the scheme insofar as it makes reservations of land for income of the Panchayat is hit by the second proviso to Article 31-A. The scheme reserves lands for phirni, paths, agricultural paths, manure pits, cremation grounds, etc., and also reserves an area of 100 kanals 2 marlas (standard kanals) for income of the Panchayat. We have already held in *Ajit Singh case* [(1967) 2 SCR 143] that acquisition for the common purposes such as phirnis, paths, etc., is not acquisition by the State within the second proviso to Article 31-A. But this does not dispose of the

question whether the reservation of land for income of the Panchayat is acquisition of land by the state within the second proviso to Article 31-A. We held in that case that there was this essential difference between "acquisition by the State" on the one hand and "modification or extinguishment of rights" on the other that in the first case the beneficiary is the State while in the latter case the beneficiary of the modification or the extinguishment is not the State. Here it seems to us that the beneficiary is the Panchayat which falls within the definition of the word "State" under Article 12 of the Constitution. The income derived by the Panchayat is in no way different from its any other income. It is true that Section 2(*bb*) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, defines "common purpose" to include the following purposes:

> "… providing income for the Panchayat of the village concerned for the benefit of the village community."

Therefore, the income can only be used for the benefit of the village community. But so is any other income of the Panchayat of a village to be used. The income is the income of the Panchayat and it would defeat the whole object of the second proviso if we were to give any other construction. The Consolidation Officer could easily defeat the object of the second proviso to Article 31-A by reserving for the income of the Panchayat a major portion of the land belonging to a person holding land within the ceiling limit. Therefore, in our opinion, the reservation of 100 kanals 2 marlas for the income of the Panchayat in the scheme is contrary to the second proviso and the scheme must be modified by the competent authority accordingly."

48. It can thus be seen that, this Court held that there was an essential difference between "acquisition by the State" on the one hand and "modification or extinguishment of rights" on the other hand. It was held that in the first case, the beneficiary was the State while in the latter case, the beneficiary of the modification or the extinguishment was not the State. This Court held that since the Panchayat would fall within the definition of the word "State" under Article 12 of the Constitution, if the acquisition is for the purposes of providing income to the Panchayat, it would defeat the whole object of the second proviso. This Court held that the Consolidation Officer could easily defeat the object of the second proviso to Article 31-A by reserving for the income of the Panchayat a major portion of the land belonging to a person holding land within the ceiling limit.

49. The second argument which was advanced before this Court in ***Bhagat Ram*** (supra) was that acquisition had already taken place before the Constitution (Seventeenth Amendment) Act, 1964 came into force and therefore the scheme was not hit by the second proviso to Article 31-A. It was sought to be argued that the requirements as contemplated under Sections

23, 24 and 21(2) of the Consolidation Act of 1948 were already complete and as such, the acquisition had already taken place before the Constitution (Seventeenth Amendment) Act, 1964.

50. It will be relevant to refer to the following observations of this Court, in the majority judgment in ***Bhagat Ram*** (supra) while rejecting the aforesaid submissions*:*

> "**4.** It is clear from this affidavit that possession has not been transferred in pursuance of the repartition. The learned Counsel for the petitioners relies on this fact and says that in view of Section 23-A and Section 24 the "acquisition" does not take place till all the persons entitled to possession of holdings under the Act have entered into possession of the holdings. Sections 23-A and 24 read as follows:
>
> > "23-A. As soon as a scheme comes into force, the management and control of all lands assigned or reserved for common purposes of the village under Section 18, shall vest in the Panchayat of that village which shall also be entitled to appropriate the income accruing therefrom for the benefit of the village community, and the rights and interest of the owners of such lands shall stand modified and extinguished accordingly.
> >
> > 24. (1) As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force and the possession of the allottees affected by the scheme of consolidation, or, as the case may be, by repartition, shall remain undisturbed until a fresh

> scheme is brought into force or a change is ordered in pursuance of provisions of sub-section (2), (3) and (4) of Section 21 or an order passed under Section 36 or 42 of this Act.
>
> (2) A Consolidation Officer shall be competent to exercise all or any of the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887 (Act 17 of 1887), for purposes of compliance with the provisions of sub-section (1)."

5. It seems to us clear from these provisions that till possession has changed under Section 24, the management and control does not vest in the Panchayat under Section 23-A. Not only does the management and control not vest but the rights of the holders are not modified or extinguished till persons have changed possession and entered into the possession of the holdings allotted to them under the scheme. Mr Gossain, the learned Counsel for the State, tried to meet this point by urging that by virtue of repartition under Section 21, the rights to possession of the new holdings were finalised and could be enforced. This may be so; but this cannot be equivalent to "acquisition" within the second proviso to Article 31-A.

6. In the result we hold that the scheme is hit by the second proviso to Article 31 A insofar as it reserves 100 kanals 2 marlas for the income of the Panchayat. We direct the State to modify the scheme to bring it into accord with the second proviso as interpreted by us, proceed according to law. There would be an order as to costs."

51. It can thus clearly be seen that the Constitution Bench of this Court in ***Bhagat Ram*** (supra) held that, upon reading of Sections 23-A and 24 of the Consolidation Act of 1948 it was

clear that, till possession has changed under Section 24, the management and control does not vest in the Panchayat under Section 23-A of the Consolidation Act of 1948. It further held that not only does the management and control not vest but the rights of the holders are not modified or extinguished till persons have changed possession and entered into the possession of the holdings allotted to them under the scheme. Though the counsel for the State tried to urge that, by virtue of repartition under Section 21, the rights to possession of the new holdings were finalized and could be enforced, this Court held that this cannot be equivalent to "acquisition" within the second proviso to Article 31-A of the Constitution of India.

52. The Full Bench of the High Court in the impugned judgment and final order attempted to draw a distinction between the land reserved for common purposes under Section 18(c) of the Consolidation Act of 1948 which might become part and parcel of a Scheme framed under Section 14, for the areas reserved for common purposes, though they have actually not been put to any common use and may be put to common use in a later point of time on one hand and the lands which might have been contributed by the proprietors on pro-rata basis but

have not been reserved or earmarked for common purposes in the Scheme. It will be relevant to refer to the following observations of the Full Bench of the High Court:

> "The land reserved for common purposes under Section 18(c), which might become part and parcel of a scheme framed under Section 14, for the areas reserved for common purposes, vests with the Government or Gram Panchayat, as the case may be, and the proprietors are left with no right or interest in such lands meant for common purposes under the scheme. There is nothing at all mentioned either in the Act or the rules or the scheme, that came to be framed, that the proprietors will lose right only with regard to land which was actually put to any use and not the land which may be put to common use later in point of time. In none of the sections or Rules, which have been referred to by us in the earlier part of scheme envisages only such lands which have been utilized. That apart, in all the relevant sections and the rules, words mentioned are 'reserved or assigned'. Reference in this connection may be made to sub-section (3) of Section 18 and Section 23-A. The provisions of the statute, as referred to above, would, thus, further fortify that reference is to land reserved or assigned for common use, whether utilized or not.
>
> *** *** ***
>
> The lands which, however, might have been contributed by the proprietors on pro-rata basis, but have not been reserved or earmarked for common purposes in a scheme, known as Bachat land, it is equally true, would not vest either with the State or the Gram Panchayat and instead continue to be owned by the proprietors of the village in the same proportion

in which they contribute the land owned by them. The Bachat land, which is not used for common purposes under the scheme, in view of provisions contained in Section 22 of the Act of 1948, is recorded as Jumla Mustarka Malkan Wa Digar Haqdaran Hasab Rasad Arazi Khewat but the significant differences is that in the column of ownership proprietors are shown in possession in contrast to the land which vests with the Gram Panchayat which is shown as being used for some or the other common purposes as per the scheme.

We might have gone into this issue in all its details but in as much as the point in issue is not res-integra and in fact stands clinched by string of judicial pronouncements of this Court as well as Hon'ble Supreme Court, there is no necessity at all to interpret the provisions of the Act and the rules any further on this issue.

The Hon'ble Supreme Court in Bhagat Ram and ors. Vs. State of Punjab and ors. AIR 1967 Supreme Court 927, dealt with reservation of certain area in the consolidation scheme for income of the Panchayat. Brief facts of the case aforesaid would reveal that a scheme made in respect of consolidation of village Dolike Sunderpur was questioned on the ground that in as much as it makes reservation of land for income of the Gram Panchayat, it is hit by second proviso to Article 31-A of the Constitution of India. The scheme in question reserved lands for phirni, paths, agricultural paths, manure pits, cremation grounds etc. and also reserved an area of 100 kanals 2 marlas (standard kanals) for income of the Panchayat. It was held as under:

"The income derived by the Panchayat is in no way different from its any other income. It is true that Section 2(*bb*) of the East Punjab Holdings (Consolidation and Prevention of

Fragmentation) Act, 1948, defines "common purpose" to include the following purposes:

> "... providing income for the Panchayat of the village concerned for the benefit of the village community."

Therefore, the income can only be used for the benefit of the village community. But so is any other income of the Panchayat of a village to be used. The income is the income of the Panchayat and it would defeat the whole object of the second proviso if we were to give any other construction. The Consolidation Officer could easily defeat the object of the second proviso to Article 31-A by reserving for the income of the Panchayat a major portion of the land belonging to a person holding land within the ceiling limit. Therefore, in our opinion, the reservation of 100 kanals 2 marlas for the income of the Panchayat in the scheme is contrary to the second proviso and the scheme must be modified by the competent authority accordingly."

The ratio of the judgment aforesaid would clearly suggest that it is the land reserved for common purposes under the scheme which would be saved, which, otherwise, would be hit by second proviso to Article 31-A of the Constitution of India. Surely, if the land, which has not been reserved for common purposes under the scheme and is Bachat or surplus land, i.e., the one which is still left out after providing the land in scheme for common purposes, if it is to vest with the State or Gram Panchayat, the same would be nothing but compulsory acquisition within the ceiling limit of an individual without payment of compensation and would offend second proviso to Article 31-A of the Constitution of India."

53. We have therefore no hesitation in holding that no error could be noticed in the impugned judgment and final order of the Full Bench of the High Court to the extent that it holds that the lands which have not been earmarked for any specific purpose do not vest in the Gram Panchayat or the State.

(b) Consideration of the judgment of the Full Bench of the High Court in the impugned judgment and final order referring its earlier judgment in *Gurjant Singh* (supra) and several other judgments.

54. It will be relevant to refer to the following observations of the Full Bench of the High Court in the impugned judgment and final order:

> "Division Bench of this Court, in which one of us (V.K. Bali, J.) was a member, after referring to case law on the subject from 1967 to 1997 in Bhagat Ram vs. State of Punjab, (1967) 69, PLR, 287, Des Raj vs. Gram sabha of Village Ladhot, 1981 PLJ, 300, Chhajju Ram vs. The Joint Director, Panchayats, (1986-1) 89, PLR, 586, Gram Panchayat, Gunia Majri vs. Director Consolidation of Holdings, (1991-1) 99 PLR, 342, Gram Panchayat Sahara (formerly Dhuma) vs. Baldev Singh, 1977 PLJ, 276, Baj Singh vs. State of Punjab (1992-1) 101 RLR, 10, Kala Singh vs. Commissioner, Hisar Division, 1984 PLJ, 169, Joginder Singh vs. The Director Consolidation of Holdings (1997-2) 116 PLR 116, Bhagwan Singh vs. The Director Consolidation of Holdings, Punjab, (1997-2) 116 PLR, 472 and Gram Panchayat, Village Bhedpura vs. The Additional Director, Consolidation, (1997-1) 115 PLR, 391, held that the Bachat land,

i.e., land which remains unutilized after utilizing the land for the common purposes so provided under the consolidation scheme vests with the proprietors and not with the Gram Panchayat". It was further held that "the unutilized land after utilizing the land earmarked for the common purposes, has to be redistributed amongst the proprietors according to the share in which they had contributed the land belonging to them for common purposes". There is no need to give facts of the judicial precedents relied upon in Gurjant Singh's case (supra) as the same stand mentioned already therein and reiteration thereof would necessarily burden this judgment.

The decision of Division Bench of this Court in Gurjant Singh's case (supra) was tested, at the instance of the State of Punjab, in Civil Appeal No. 5709-5714 of 2001. Only, the general directions given in the judgment recorded in Gurjant Singh's case (supra) for distribution of land to the proprietors were set aside and that too on the concession of learned counsel, who represented the Respondents in the case aforesaid. Order passed by the Hon'ble Supreme Court on August 27, 2001, reads thus:-

> "Leave granted.
>
> Mr. Harsh N. Salve, learned Solicitor General, submitted that the State of Punjab takes objection only in regard to the following observations made in the impugned judgment:-
>
> > "This exercise, it appears, has not been done throughout the State of Punjab and Haryana and villages forming part of Union Territory, Chandigarh, even though there is a specific provision for doing that.
> >
> > This exercise be done as expeditiously as possible and preferably within six months proceedings for repartition must

> commence. Liberty to apply in the event of non-compliance of directions referred to above."
>
> Learned counsel for the Respondent submits that they had no objection in deleting the aforesaid portions from the impugned judgment. We allow these appeals to be extent of deleting of the above said passage from the impugned judgment.
>
> These appeals are disposed of accordingly."

55. It is thus clear that the Full Bench of the High Court has referred to the judgment of the Division Bench of the said Court in the case of ***Gurjant Singh*** (supra).

56. It is pertinent to note that in the case of ***Gurjant Singh*** (supra), the Division Bench of the High Court had noted a series of judgments delivered by the said High Court relying on the law laid down by the Constitution Bench of this Court in ***Bhagat Ram*** (supra). All these decisions had held that the land which remains unutilized after utilizing the land for the common purposes so provided under the consolidation scheme vests with the proprietors and not with the Gram Panchayat. It was further held that the unutilized land i.e., the *bachat* land, left after utilizing the land earmarked for the common

purposes, has to be redistributed amongst the proprietors according to the share in which they had contributed the land belonging to them for common purposes.

57. It is to be noted that in Civil Appeal Nos. 5709-5714 of 2001, which was preferred by the State challenging the judgment in the case of ***Gurjant Singh*** (supra), the State had objected only with regard to the observations wherein the time limit was provided for effecting redistribution of *bachat* land amongst the proprietors according to their share. It would thus be clear that the State itself did not press the appeals with regard to the directions for redistribution of the *bachat* land amongst the proprietors according to their share. It appears that the only grievance of the State was with regard to the directions to do it within a specified period of time.

(c) Applicability of the doctrine of *stare decisis* to the facts of the present case.

58. The Full Bench of the High Court in the impugned judgment and final order in the alternative held that, a consistent view has been taken in more than 100 judgments by the Punjab and Haryana High Court and applying the doctrine of *stare decisis*, such a view cannot be upset.

59. The doctrine of stare decisis lays importance on stability and predictability in the legal system and mandates that a view consistently upheld by courts over a long period must be followed, unless it is manifestly erroneous, unjust or mischievous.

60. In the case of ***Maganlal Chhaganlal (P) Ltd. v. Municipal Corporation of Greater Bombay***[15], this Court observed thus:

> "A view which has been accepted for a long period of time should not be disturbed unless the Court can say positively that it was wrong or unreasonable or that it is productive of public hardship or inconvenience."

61. Similarly, in the case of ***Waman Rao v. Union of India***[16], this Court observed thus:

> "**40.** It is also true to say that for the application of the rule of stare decisis, it is not necessary that the earlier decision or decisions of longstanding should have considered and either accepted or rejected the particular argument which is advanced in the case on hand. Were it so, the previous decisions could more easily be treated as binding by applying the law of precedent and it will be unnecessary to take resort to the principle of stare decisis. It is, therefore, sufficient for invoking the rule of stare decisis that a certain decision was arrived at on a question which arose or was argued, no matter on what reason the decision rests or what is the basis of the decision. In

[15] **(1974) 2 SCC 402**
[16] **AIR 1981 SC 271**

other words, for the purpose of applying the rule of stare decisis, it is unnecessary to enquire or determine as to what was the rationale of the earlier decision which is said to operate as stare decisis. Therefore, the reason why Article 31-A was upheld in the earlier decisions, if indeed it was, are not germane for the purpose of deciding whether this is a fit and proper case in which to apply that rule."

62. We find no error in the judgment of the Full Bench of the High Court in applying the doctrine of stare decisis to the facts of the present case inasmuch as it followed the law which was consistently applied in more than 100 judgments.

IV. CONCLUSION

63. In the result we find no merit in the appeal of the State. The same is accordingly dismissed.

64. In the facts and circumstances of the case, there shall be no order as to costs. Pending application(s), if any, shall stand disposed of.

.....CJI
(B.R. GAVAI)

.....J
(PRASHANT KUMAR MISHRA)

.....J
(K.V. VISWANATHAN)

NEW DELHI;
SEPTEMBER 16, 2025