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**THE
PUNJAB SECURITY
OF LAND TENURES
ACT, 1953**

Act No. 10 of 1953

**As Amended upto date
WITH LATEST CASE LAW**

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Punjab Law Agency

S.C.O. 4 and 5 (First Floor)

Above S.B.I. Treasury Branch

Behind K.C. Cinema, Sector 17-B,
Chandigarh. 160017

Phone : 0172-5071706, Mobile 9815652222

THE PUNJAB SECURITY OF LAND TENURES ACT, 1953

PUNJAB ACT NO.X OF 1953

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THE PUNJAB SECURITY OF LAND TENURES ACT, 1953

Punjab Act No.X of 1953

[Received the assent of the President on the 15th April, 1953, and was first published in the Punjab Government Gazette Extraordinary of the 15th April, 1953.]

An Act to provide for the security of land tenure and other incidental matters.

It is hereby enacted as follows:-

1. Short Title, Extent And Commencement. - (1) This Act may be called the Punjab Security of Land Tenures Act, 1953.

(2) It shall come into force at once.

(3) It shall extend to the whole of the State of Punjab.

(4) Save as elsewhere expressly provided in this Act nothing contained therein shall apply to co-operative garden colonies which were registered before the coming into force of this Act.

2. Definitions. - In this Act, unless the context otherwise requires, -

(1) "Landowner" means a person defined as such in the Punjab Land Revenue Act, 1887 (Act XVII of 1887), and shall include an "allottee" and "lessee" as defined in clauses (b) and (c), respectively, of Section 2 of the East Punjab Displaced Persons (Land Resettlement) Act, 1949 (Act XXXVI of 1949), hereinafter referred to as the "Resettlement Act".

Explanation- In respect of land mortgaged with possession, the mortgagee shall be deemed to be the landowner.

(2) "Small landowner" means a landowner whose entire land in the State of Punjab does not exceed the "permissible area".

Explanation - In computing the area held by any particular landowner the entire land owned by him in the State of Punjab, as entered in the record of rights shall be taken into account, and if he is a joint owner only his share shall be taken into account.

(3) "Permissible area" in relation to a landowner or a tenant, means thirty standard acres and where such thirty standard acres on being converted into ordinary acres exceed sixty acres, such sixty acres:-

Provided that:-

(i) no area under an orchard at the commencement of this Act, shall be taken into account in computing the permissible area.

(ii) for a displaced person-

(a) who has been allotted land in excess of fifty standard acres, the permissible area shall be fifty standard acres or one hundred ordinary acres, as the case may be.

(b) who has been allotted land in excess of thirty standard acres, but less than fifty standard acres, the permissible area shall be equal to this allotted area.

Section---2

- (c) who has been allotted land less than thirty standard acres, the permissible area shall be thirty standard acres, including any other land or part thereof, if any, that he owns in addition.

Explanation. - For the purposes of determining the permissible area of a displaced person, the provisions of proviso (ii) shall not apply to the heirs and successors of the displaced person to whom land is allotted.

- (4) "Reserved area" means the area lawfully reserved under the Punjab Tenants (Security of Tenures) Act, 1950 (Act XXII of 1950), as amended by President's Act of 1951 hereinafter referred to as the "1950 Act" or under this Act.

- (5) "Standard acre" means a measure of area convertible into ordinary acres of any class of land according to the prescribed scale with reference to the quantity of yield and quality of soil.

- (5-a) "Surplus area" means the area other than the reserved area, and where no area has been reserved, the area in excess of the permissible area selected under Section 5-B or the area which is deemed to be the surplus area under sub-section (1) of Section 5-C and includes the area in excess of the permissible area selected under Section 19-B, but it will not include a tenant's permissible area:

Provided that it will include the reserved area, or part thereof, where such area or part has not been brought under self-cultivation within six months of reserving the same or getting possession thereof after ejecting a tenant from it whichever is later, or if the landowner admits a new tenant, within three years of the expiry of the said six months.

- (6) "Tenant" has the meaning assigned to it in the Punjab Tenancy Act, 1887, and includes a sub-tenant and self-cultivating lessee, but shall not include a present holder, as defined in Section 2 of the Resettlement Act.

- (7) "Year" means an agricultural year as defined in Section 4 of the Punjab Tenancy Act, 1887.

- (8) "Land" all other terms used, but not defined in this Act, shall have the same meaning as are assigned to them in the Punjab Tenancy Act, 1887 (Act XVI of 1887).

- (9) "Self-cultivation" means cultivation by a landowner either personally or through his wife or children, or through such of his relations as may be prescribed, or under his supervision.

- (10) "Prescribed" means prescribed by rules made under this Act.

- (11) "Displaced person" has the meaning assigned to it in the East Punjab Displaced Persons (Land Resettlement) Act, 1959.

Case Law

Section 2(3)—Permissible area—Cannot be more than 60 ordinary Acres—Wrong to hold that permissible area of land owner cannot be less than 60 ordinary Acres; **Smt. Kaushalya Devi v. State of Haryana through the Collector, Hisar; 2002(1) Land L.R. (F.C. Har.) 144**

Section---3 and 4

Sections 2(3) and 2(5-a)—Surplus area—Relevant date—Transfer by petitioner held invalid as sale deeds were executed and mutation recorded subsequent to the relevant date 30.7.1958—Held—Where registered Sale deeds are executed, possession is parted with, complete title is transferred to the vendees from the vendors, the relevant date would be the date registered sale deed when consideration is passed and document is registered—Merely that mutations were recorded in the year 1966 and thereafter would no way alter the date of transfer by virtue of the sale deed; **Buta Ram (died) repled. by LRs & Anr. v. State of Haryana & Ors. : 2003(2) LAND LAWS REPORTER (Pb. & Hry.) 151**

Section 2(8)—Only question to be decided is if the lands described as, Banjar Jadid, Banjar Qadim and Ghair mumkin, can be taken into consideration for the purposes of computing surplus area—Answer is No—Such land are not lands as per section 2(8) of the 1953 Act—Cannot be taken into account for computing surplus area; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) Land L.R. (Pb. & Hry.) 172**

3. RESERVATION OF LAND BY SMALL OWNER. - Any small landowner, who by virtue of an allotment made after the commencement of this Act under the Administration of Evacuee Property Act, 1950 (Act XXXI of 1950), comes to hold more than the permissible area of land, may select out of the entire area held by him as a landowner in the State of Punjab, a parcel or parcels of land not exceeding in aggregate the permissible area and reserve it by intimating his reservation in the prescribed form and manner, to the Patwari of the estate in which the land reserved is situate, or to such other authority as may be prescribed, before expiry of six months from the date of his obtaining possession of the land so allotted:

Provided that he shall include in his reservation, to the extent of the permissible area, whatever land he had under self-cultivation immediately before the commencement of this Act.

Case Law

Sections 3, 4 and 24A—Would the death of the landowner after the surplus land is declared, allotted to tenants purchase amount deposited, call for fresh declaration of Surplus land with his legal heirs—No—Surplus land ORDER not challenged by the landowner or his legal heirs after his death—FC held the declaration of Surplus area in 1960/80 held the field—Never set aside—Allottee deposited purchase amount on 30.3.1982—Became owner of the land—Death of landowner in 1984 would not call for fresh assessment of Surplus area in the hands of legal heirs—FCs order cannot be said to suffer from any infirmity; **Sudarshan Nath & Ors. v. State of Punjab & Ors.; 2000(2) Land L.R. (Supreme Court) 330**

4. FRESH RESERVATION OF LAND DUE TO MODIFICATION OF ALLOTMENT. - Any landowner, who has made lawful reservation of land under the 1950 Act, and whose allotment is modified or revised after the commencement of this Act, under the Administration of Evacuee Property Act, 1950 (Act XXXI of 1950), shall be entitled to make a fresh reservation before the

Section---5 and 5A

expiry of six months from the date of his obtaining possession of the land so allotted.

Provided that in making his fresh reservation he shall include to the extent of the permissible area firstly the land he has under self cultivation and secondly such land out of his previous reservation, as has not passed out of his possession as a result of the said revision or modification of allotment.

5. RESERVATION OF LAND. - (1) Any reservation before the commencement of this Act, shall cease to have effect and subject to the provisions of Sections 3 and 4 any landowner who owns land in excess of the permissible area may reserve out of the entire land held by him in the State of Punjab as landowner, any parcel or parcels not exceeding the permissible area intimating his selection in the prescribed form and manner to the patwari of the estate in which the land reserved is situate or to such other authority may be prescribed.

Provided that in making this reservation he shall include his area owned in the following order:-

- (a) area held in a Co-operative Garden Colony,
- (b) area under self-cultivation at the commencement of this Act other than the reserved area,
- (c) reserved area including the area under a jhundimar tenant or a tenant who has been in continuous occupation for 20 years or more immediately before such reservation,
- (d) area of share in a Co-operative Farming Society,
- (e) any other area owned by him,
- (f) area under a jhundimar tenant.

(2) Where in respect of any land more than one person can be classed as landowners, as in the case of persons one of whom is a landowner in principal and the other in derivative capacity, the aforesaid right of reservation shall be exercised by the landowner who receives or is entitled to receive rent directly from the tenant in actual cultivation of the land.

(3) A landowner shall be entitled to intimate a reservation within six months from the date of commencement of this Act, and no reservation so intimated shall be varied subsequently whether by act of parties or by operation of law, save with the consent in writing of the tenant affected by such verification or until such time as the right to eject such tenant otherwise accrues under the provisions of this Act.

(4) & (5) Omitted.

5-A. DECLARATION SUPPORTED BY AFFIDAVITS TO BE FURNISHED BY CERTAIN LANDOWNERS AND TENANTS. - Every landowner or tenant, who owns or holds land in excess of the permissible area and where land is situated in more than one Patwar circle, shall furnish, within a period of six months from the commencement of the Punjab Security of Land Tenures (Amendment) Act,

Section---5B, 5C, 6, 7 and 8

1957, a declaration supported by an affidavit in respect of the land owned or held by him in such form and manner and to such authority as may be prescribed.

5-B. SELECTION OF PERMISSIBLE AREA AND CONSEQUENCES OF FAILURE TO SELECT. - (1) A landowner who has not exercised his right of reservation under this Act, may select his permissible area and intimate the selection to the prescribed authority within the period specified in Section 5-A and in such form and manner as may be prescribed:

Provided that a landowner who is required to furnish a declaration under Section 5-A shall intimate his selection along with that declaration.

(2) If a landowner fails to select his permissible area in accordance with the provisions of sub-section (1), the prescribed authority may subject to the provisions of Section 5-C, select the parcel or the parcels of land which such person is entitled to retain under the provisions of this Act:

Provided that the prescribed authority shall not make the selection without giving the landowner concerned an opportunity of being heard.

5-C. PENALTY FOR FAILURE TO FURNISH DECLARATION. - (1) If a landowner or tenant fails to furnish the declaration supported by an affidavit as required by Section 5-A, the prescribed authority not below the rank of Controller may, by order, direct that the whole or part of the land of such landowner or tenant in excess of ten standard acres to be specified by such authority shall be deemed to be the surplus area of such landowner or tenant and shall be utilised by the State Government for the purpose mentioned in Section 10-A:

Provided that no such order shall be made without giving the landowner or tenant concerned an opportunity of being heard.

(2) Where a landowner or tenant who is required to furnish a declaration under Section 5-A fails so to do, the prescribed authority may in respect of him obtain the information required to be shown in the declaration through such agency as it may deem fit.

Landowner and owner of land distinguished. - The term landowner is wider term than the owner of land. Every owner of land is a landowner but every landowner is not the owner of land.

A widow succeeding to her husband's estate or share in an estate on a life tenure is a landowner within the meaning of the Punjab Land Revenue Act, 1887.

6. CERTAIN PREVIOUS TRANSFERS OF LAND NOT TO AFFECT RIGHTS OF TENANTS. - No transfer of land, except a bonafide sale or mortgage with possession or a transfer resulting from inheritance made after the 15th August 1947 and before the 2nd February, 1955, shall affect the rights of the tenant on such land under this Act.

7. [Repealed]

8. CONTINUITY OF Tenancies. - The continuity of tenancy shall not be affected by-

- (a) the death of the landlord, or

Section---9

- (b) the death of the tenant except when the tenant leaves no male lineal descendants or mother or widow, and
- (c) any change therein under the same landowner and for the purpose of Sections 17 and 18 of this Act, such tenancy shall be the last area so held.

9. LIABILITY OF TENANT TO BE EJECTED. (1) Notwithstanding anything contained in any other law for the time being in force, no landowner shall be competent to eject a tenant except when such tenant -

- (i) is a tenant on the area reserved under this Act or is a tenant of a small landowner, or
- (ii) fails to pay rent regularly without sufficient cause; or
- (iii) is in arrears of rent at the commencement of this Act; or
- (iv) has failed, or fails, without sufficient cause, to cultivate the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate; or
- (v) has used or uses the land comprised in his tenancy in a manner which has rendered, or renders it unfit for the purpose for which he holds it; or
- (vi) has sublet the tenancy or a part thereof; provided that where only a part of the tenancy has been sublet the tenant shall be liable to be ejected only from such part; or
- (vii) refuses to execute a Qabuliyat or a Pata in the form prescribed, in respect of his tenancy on being called upon to do so by an Assistant Collector on an application made to him for this purpose by the landowner.

Explanation - For the purpose of clause (iii), a tenant shall be deemed to be in arrears of rent at the commencement of this Act, only if the payment of arrears is not made by the tenant within a period of two months from the date of notice of the execution of decree or order, directing him to pay such arrears of rent.

(2) Notwithstanding anything contained hereinbefore a tenant shall also be liable to be ejected from any area which he holds in any capacity whatever in excess of the permissible area:

Provided that the portion of the tenancy from which such tenant can be ejected shall be determined at his option only if the area of his tenancy under the landowner concerned is in excess of the area from which he can be ejected by the said landowner:

Provided further that if the tenant holds land of several landowners and more than one landowner seeks his ejectment, the right to ejectment shall be exercised in the order in which the applications have been made or suits have been filed by the landowners concerned and in case of simultaneous application or suits the priority for ejectment shall commence serially from the smallest landowner:

Section---9

Explanation. - Where a tenant holds land jointly with other tenants only his share in the joint tenancy shall be taken into account in computing the area held by him.

Case Law

Sections 9, 9A and 14A—Tenants aggrieved by concurrent order of ejectment by courts below on grounds (1) the landowner was a small landowner (ii) no rent has been paid for last 2 years—Order of eviction passed in 1973 tenant has not vacated because he had not been resettled—Tenant had not applied for resettlement—Petitioner has failed to pay rent—No cause much less sufficient cause has been shown for such failure—Tenant is liable to be evicted under S. 9 of the Act—Orders of eviction did not absolve the tenant for paying rent; **Sunder Singh v. Financial Commissioner, Rev. Pb. Chandigarh; 2001(2) Land L.R. (Pb. & Hry.) (DB) 622**

Section 9(1)(i)—Constitution of India Article 226—Eviction—Eviction on ground of small land owner—Respondent's contention that he is a co-sharer and not a tenant—Contention not acceptable as in suit for declaration filed by respondent he claimed himself to be tenant—Holdings of tenant in Haryana is more than 5 standard acres and land also in Punjab—Tenant not poor—Claim of land owner for eviction of tenant sustained; **Rugha Ram v. Financial Commissioner, Revenue, Haryana; 2002(1) Land L.R. (Pb. & Hry.) (DB) 251**

Section 9(1)(i)—Ejected tenant—Petitioners—Orders of ejectment subject to resettlement of petitioners on equivalent land available from separate pool—Allotment made—Petitioner resisted this allotment on grounds of poor quality of land as also being taken away from his residence—Prayed for allotment some surplus land nearer his place—On persistent requests, Commissioner allotted land in lambardar village, already in occupation of armed forces, possession to be given on armed forces vacating the land—It was later found by FC that Forces occupation was continued indefinitely and thus FC revived its earlier order—Review is under challenge.; **Des Raj alias Deso v. Financial Commissioner, Taxation, Punjab and others; 2004(1) Land L.R. (Pb. & Hry.) 316**

Sections 9 (1)(i) and 77—Transfer of Property Act, 1882—Section 54—Ejectment proceedings pending before revenue court, landlords/Tenants enter into an agreement to sell land as per time bound programme—Half of earnest money paid—Thereafter tenants, prospective vendors, neither paid half of the earnest money, nor adhered to the time schedule for execution of the sale deed—And also stopped paying batai to the petitioners /landlords—Collector ordered ejectment—Upheld by Commissioner in appeal but F.C. set aside the order—It was held that agreement to sell entered, put an end to the relationship of landlord tenants challenge to the observation is by this Civil Writ Petition—Under Section 54 of T.P.A. it cannot be said that mere execution of the sale agreement does not mean the right of the lessor has come to an end—Mere agreement to sell does not confer any title—Relationship of landlord Tenants are not swapped.; **Harkaran Singh and ors. v. Financial Commissioner Haryana and ors.; 2004(1) Land L.R. (Pb. & Hry.) 217**

Section---9A

Section 9(1)(ii)—Non-payment of rent Eviction proceedings—Revision before F.C. was also decided against petitioner—Petitioner claims to be not aware of the change in ownership—Before AC; petitioner has admitted the relationship of landlord and tenant—Petitioner is not now entitled to contend otherwise—There being no sufficient cause for non-payment of rent and regular defaults without any cause, there is no ground to interfere in findings recorded by authorities—No error needs correction in exercise of extraordinary jurisdiction under Art. 226 of the Constitution; **Surinder Singh v. Financial Commissioner, Punjab; 2002(1) Land L.R. (Pb. & Hry.) (DB) 692**

9-A. ACCOMMODATION OF TENANTS ON SURPLUS AREA. - No tenant liable to ejectment under clause (i) of sub-section (1) of the section next proceeding shall be dispossessed of his tenancy unless he is accommodated on a surplus area in accordance with the provisions of Section 10-A or otherwise on some other land by the State Government.

Provided that if the tenant concerned is the tenant of a small landowner, he shall be allowed to retain possession of his tenancy to the extent of five standard acres including any other land which he may hold as tenant or owner, until he is so accommodated on a surplus area or otherwise;

Provided further, that if a tenancy commences after the commencement of this Act, and the tenant is also an owner and is related to his landlord in the manner prescribed, he shall not be entitled to the benefit of this section:

Provided further that the tenant of a landowner who is a member of the Armed Forces of the Union shall also not be entitled to the benefit of this section.

Case Law

Section 9A—Petitioners ordered to be evicted from the land in their possession—Resettlement already ordered on some surplus area—Petitioners refused to accept the allotment as the land owner had filed a suit challenging declaration of surplus area—This suit had been filed in 1989 and the petitioners refused acceptance in 1987—Other contention that the allotted land already stood allotted to some one else is baseless—That allotment had been cancelled in 1984—On either of the two contentions petitioners were not justified in retaining possession of the present land and in refusing to accept the allotment—Writ petition fails; **Abdul Rehman v. State of Haryana; 2000(3) Land L.R. (Pb. & Hry.) 475**

Section 9-A, First Proviso—Ejected Tenants—Resettlement of—All of ejected tenants to be resettled to the extent of 5 standard including another land held or owned by them and not each individual ejected tenant; **Dona Ram v. State of Punjab; 2003(1) Land L.R. (F.C. Pb) 241**

Sections 9A & 9—Haryana Utilisation of surplus and other areas scheme, 1976, Para 5—Ejectment ordered in 1981 under the Tenures Act, Section 9—Petitioners should have been keen for allotment of surplus land—Only at the

PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 17th December, 2013

No. 61-Leg./2013.—The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 29th Day of November, 2013, is hereby published for general information:-

**THE PUNJAB SECURITY OF LAND TENURES (AMENDMENT)
ACT, 2013**

(Punjab Act No. 50 of 2013)

AN

ACT

further to amend the Punjab Security of Land Tenures Act, 1953.

BE it enacted by the Legislature of the State of Punjab in the Sixty-ninth Year of the Republic of India, as follows:-

(1) This Act may be called the Punjab Security of Land Tenures (Amendment) Act, 2013.

Short title and commencement

(2) It shall come into force at once.

In the Punjab Security of Land Tenures Act, 1953, for section 9-B, the following section shall be substituted, namely:-

Substitution of section 9-B of Punjab Act No. 1953.

"9-B. The concession given under sections 9 and 9-A to the land owner, who is a Non-Resident Indian, shall be available only in respect of his ancestral property and the property, which has been purchased by him at least five years before from the date he files the ejectment application."

H.P.S. MAHAL,

Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

Section---9A

Section 9(1)(a)

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Section---10

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instance of SDO petitioners put in an application for allotment—Made no efforts to get the allotment—Not having done that, they have clearly disintitiled themselves from retaining the possession of the land from which they were ordered to be evicted—Land owner cannot be made to wait indefinitely—Punjab Security of Land Tenures Rules 1956, R. 15; **Abdul Rehman v. State of Haryana ; 2000(3) Land L.R.(Pb. & Hry.) 475**

Sections 9A and 14-A—Ordered to be ejected from the land of small landowner in 1973—Under protection provided by Section 9A, petitioners continue in possession—This protection does not absolve petitioners from paying rent to the small landowner—Liability to eject is clearly imposed by Section 9 of the Act—Small landowner filed petition under Section 14-A—Authorities were justified in ordering eviction of the petitions—Petition dismissed with costs payable to small landowners.; **Sunder Singh v. Financial Commissioner, Revenue, Punjab; (Pb. & Hry.) (D.B.) 2001(2) Land L.R. 81**

10. RESTORATION OF TENANT EJECTED AFTER THE 15TH OF AUGUST, 1947. - (1) Where a tenant has been ejected from any land in excess of the permissible area on grounds other than those mentioned in Section 9, before the commencement of this Act, and after the 15th August, 1947 and such land is under self-cultivation, such tenant shall subject to the provisions of this Act be entitled to be restored to his tenancy in the manner prescribed on the same terms and conditions on which it was held by him at the time of this ejectment, on an application made to an Assistant Collector of the First Grade having jurisdiction, within one year from the date of intimation of reservation after the commencement of this Act, or, if no such reservation is made within the period specified in sub-section (3) of Section 5, two years from the date of commencement of this Act:

Provided that if more tenants than one have been ejected from the same tenancy, the right of application for restoration shall be exercisable in serial order of priority commencing from the tenant first ejected and to the extent in each case of the permissible area, after taking into account any other tenancy, or land which the ejected tenant holds at the time of his application for restoration.

On receipt of an application the Assistant Collector shall, after giving to the applicant notice in writing and a reasonable opportunity to be heard, determine the application summarily and shall keep a memorandum of evidence and a gist of his order with brief reasons therefor.

When an application has been made, any proceedings in relation to the same or pending in any other court or before any other authority shall be stayed on receipt of information by that court or authority from such Assistant Collector of the First Grade having received the application and all such proceedings in a court or before any authority shall lapse when the dispute has been determined by the Assistant Collector acting under this Act.

Section---10A

(4) A landowner or any other person in actual possession of land at the time of restoration shall be entitled to such compensation as may be determined by the Assistant Collector, from the tenant intended to be restored, for any loss suffered in consideration of anything done prior to the date of his first receiving information of the application;

Provided that no ejected tenant shall be restored to his tenancy as provided hereinbefore unless he has paid compensation as determined by the Assistant Collector to the landowner or other person, if any, as the case may be.

10-A. SURPLUS AREA FOR RESETTLEMENT OF EJECTED TENANTS. - (a) The State Government or any officer empowered by it in this behalf, shall be competent to utilise any surplus area for the resettlement of tenant ejected, or to be ejected, under clause (i) of sub-section (1) of Section 9.

(b) Notwithstanding anything contained in any other law for the time being in force and save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance no transfer or other disposition of land which is comprised in surplus area, at the commencement of this Act, shall affect the utilization thereof in clause (a).

Explanation - Such utilisation of any surplus area will not effect the right of the landowner to receive rent from the tenant so settled.

(c) For the purposes of determining the surplus area of any person under this section any judgment, decree, or order of a court or other authority, obtained after the commencement of this Act and having the effect of diminishing the area of such person which could have been declared as his surplus area shall be ignored.

Case Law

Sections 10-A, 10-B, 5-B, 5-C, 8 and 12—Surplus area—Tenants permissible area—Collector, while deciding the case of big landowner, stated, out of 133 standard acres 2 units, 126 standard acres 17 units were under the cultivation of old tenants—Therefore no surplus area—Original land owner died without exercising his vested right of selecting his permissible area—In alternative, such an exercise is not done by the concerned authorities themselves—Resultantly, area commuted in the hands of heirs of land owner and in as much as heirs were not the big land owner, having less than 30 Standard Acres of land— No order declaring a landowner's area to be tenants permissible area can be passed—Appeal dismissed; Antu and others v. Naresh Saran and others; 2001(2) Land L.R. (Pb. & Hry.) (DB) 475

Sections 10-A, 10-B and 12(3)—Surplus area—Release of—Land declared surplus and vested in the state w.e.f. 23.12.1972—Original owner died in 1973—Such land cannot be released on the ground of inheritance as owner has deemed to vested land in state—Death will have no effect; Amar Singh v. State of Haryana : 2002(3) Land L.R (Pb.& Hry.) 487

Section---10B, 11, 12 and 13

10-B. SAVING BY INHERITANCE NOT TO APPLY AFTER UTILISATION OF SURPLUS AREA. - Where succession has opened after the surplus area or any part thereof has been utilised under clause (a) of Section 10-A, the saving specified in favour of an heir by inheritance, under clause (b) of that section shall not apply in respect of the area so utilised.

11. TENANTS RIGHT TO WATER. - Save in proportion to reduction in the tenancy, if any, a landowner shall not be competent to curtail or terminate the supply of canal or use of well water enjoyed by a tenant immediately before the commencement of this Act, and a breach of this provision shall constitute a cognizable offence punishable with imprisonment which may extend to six months and shall be triable by a court not below the rank of a Second Class Magistrate.

12. AMOUNT OF MAXIMUM RENT. - (1) Notwithstanding anything contained in the Punjab Tenancy Act, 1887 (Act XVI of 1887), or in any agreement or usage or any decree or order of a court, the maximum rent payable by a tenant for any land held by him as such shall not exceed one-third of the crop of such land or the value thereof as determined in the prescribed manner, and where the customary rent is less than one-third the maximum rent shall be such customary rent.

(2) In computing the maximum rent payable by a tenant, such portion of the rent, if any, as represents the consideration for services or facilities provided by the landowner in relation to the land shall not be taken into account.

Case Law

Section 12—Rent—Enhancement of—Tenants, cultivating land on a nominal rent since long—Enhancement sought by landlord on ground of increase in value of land and increase in agricultural produce due to modern cultivating methods—Held— As per prevalent custom, rent to be determined as 1/3 batai of actual produce instead of fixing it; Ram Kumar v. Ram Nath : 2003(3) Land L.R. (F.C. Haryana) 44

Sections 12 and 14- A(iii)—Tenancy—Rent—Illegal to recover rent by way of 1/2 share of agricultural produce of the land under tenancy—A land lord cannot recover more than 1/3rd of such produce—Once tenancy is created, theka (lease money) cannot be claimed—Single default of non-payment of rent is sufficient to render the tenant liable for ejectment—Collecting rent in excess of maximum, alleged but, whether tenant has sufficient cause for non-payment is to be decided—Case remanded.; Ajit Singh v. Mela Singh (Dead) through LRs. : 2002(3) Land L.R (FC., Pb.) 514

13. ASSESSMENT OF CHARGES FOR SERVICES OR FACILITIES PROVIDED BY THE LANDOWNER. - Unless the charges payable for services or facilities provided by landowner in relation to the land have been specifically provided for in an agreement between the parties, such charges shall be determined by the Assistant Collector, First Grade, having jurisdiction, who shall

Section---14 and 14A

give due regard to the usage of the locality and if there is no such usage, he shall give regard, amongst other matters, to -

- (a) the direct advantage gained by the land by the provision of such services or facilities;
- (b) the condition or nature of the services of facilities and the probable duration of their effects;
- (c) the labour or capital required for the provision of such services or facilities.

14. DUTY OF LANDOWNER TO FURNISH RECEIPT FOR RENT RECEIVED FROM TENANT. - Every landowner shall give or cause to be given a valid receipt to the tenant in the form prescribed for the rent received by him or on his behalf.

(2) Any landowner who fails to give or cause to be given such receipt shall on conviction be punishable with fine which may extend to one hundred rupees.

14-A. PROCEDURE FOR EJECTMENT AND RECOVERY OF ARREARS OF RENTS ETC. - Notwithstanding anything to the contrary contained in any other law for the time being in force, and subject to the provisions of Section 9-A -

- (i) a landowner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector, First Grade, having jurisdiction, who shall thereafter the Assistant Collector, First Grade, having jurisdiction, who shall thereafter proceed as provided for in sub-section (2) of Section 10 of this Act, and the provisions of sub-section (3) of the said section shall also apply in relation to such application, provided that the tenant's rights to compensation and acquisition of occupancy rights, if any, under the Punjab Tenancy Act, 1887 (XVI of 1887) shall not be affected;
- (ii) a landowner desiring to recover arrears of rent from a tenant shall apply in writing to the Assistant Collector, Second Grade, having jurisdiction, who shall thereupon send a notice in the form prescribed, to the tenant either to deposit the rent or value thereof if payable in kind or give proof of having paid it or of the fact that he is not liable to pay the whole or part of the rent, or of the fact of the landlords refusal to receive the same or to give a receipt, within the period specified in the notice. Where, after summary determination, as provided for in sub-section (2) of Section 10 of this Act, the Assistant Collector finds that the tenant has not paid or deposited the rent, he shall eject the tenant summarily and put the landowner in possession of the land concerned;
- (iii) (a) if a landowner refuses to accept rent from his tenant or demand rent in excess of what he is entitled to under this Act, or refuses to give a receipt, the tenant may in writing inform the Assistant Collector, Second Grade, having jurisdiction of the fact;
- (b) on receiving such application the Assistant Collector shall by a written notice require the landlord to accept the rent payable in

accordance within this Act, or give a receipt, as the case may be, or both, within 60 days of the receipt of the notice.

Case Law

Section 14 A—Petitioner ordered to be ejected from the land of respondent, as respondent was a small farmer—Ejectment was subject to his settlement on some other land—Petitioner did not apply for resettlement but stopped paying rent to respondent—For failure to pay rent he was ordered to be evicted—It was further held that mere passing of order of eviction, a tenant is not absolved of his responsibility to pay rent—Detailed orders were passed by the authorities below—No merit in petitions—Dismissed with costs payable to small landlord, respondents; **Sunder Singh v. Financial Commissioner, Revenue, Punjab and others; 2001(1) (Pb. & Hry.) 648**

Section 14-A—Proviso (as added by the Act 5 of 1991)—Punjab Security of Land Tenures Rules, 1956—Rules 22 Form 'N'—Eviction—Non-payment of rent—Arrears of Rent payable, assessed by Assistant Collector—Not deposited within 15 days—Eviction ordered—No jurisdictions with Collector to extend time; **Smt. Chando Devi v. Smt. Dharmo Devi; 2002(1) Land L.R. (F.C. Hry.) 304**

Section 14-A (as amended in 1992)—Arrear of Rent—Ejectment—Rent paid within 15 days of date of first hearing—Ejectment set aside—Order correct as per law; **Raj Mal v. Vijay Kumar : 2002(3) Land L.R. (FC, Hry.) 229**

Section 14-A (as amended in 1992)—Additional protection bestowed on the tenants who are allowed to deposit the due rent in favour of the landlord within 15 days of the first hearing of the case before ACIG and such a hearing dates from the day of application of mind to the issues involved in application under Form-L; **Raj Mal v. Vijay Kumar : 2002(3) Land L.R. (FC, Hry.) 229**

Section 14(A)(i) and (ii) and 24—Punjab Tenancy Act, 1887—Section 84—Ejectment—Non-payment of Batai—Non impleadment of necessary party—Mother of landlord residing in village and receiving rent from tenant—No reason accorded for non-examination of prime witness (mother)—In interest of justice, case remanded, to be decided afresh after examining the prime witness; **Jagdish v. Janak Kumar : 2002(3) Land L.R. (FC, Hry.) 245**

Section 14A (ii) Form 'N'—Punjab Tenancy Act, 1887—Section 77(3)—Non-payment of rent—Ejectment order under Pb. Tenancy Act—Notice under Section 14A(ii) of Pb. Security of Land Tenures Act in form 'N' served on tenant—Non-compliance of procedure—Ejectment order set aside; **Ramesh Chand v. Subhash Chand : 2003(1) Land L.R. (FC.- Hry.) 157**

Sections 14-A(ii) and 2(8)—Ejectment of tenant—Failure to pay rent—Land in dispute described in Revenue Records as Gair Mumkin—Does not fall within the definition of land as contained under the Act—Authorities were not competent to decide the matter—Matter never raised before the authorities—Held—Cannot be allowed to be raised first time—No equity to petitioner who remained in possession of a sizeable area of land without paying a penny for the last 27 years—Petition dismissed.; **Kewal Singh v. Financial Commissioner and others : 2003(2) Land L.R. (Pb. & Hry.) 478**

Section---15, 16 and 17

Section 14-A(iii)— Constitution of India, Articles 226 & 227— Case was fixed before the financial commissioner for service of the petitioner— Financial Commissioner declined the reference made in favour of the petitioner by the commissioner, by passing a wholly non- speaking order—Service of the reference petition was effected on the petitioner—Deliberately did not appear on the said date—The declining of the reference by financial commissioner without providing an opportunity of hearing to the petition is clearly violative of the principles of natural justice—Held, same cannot be sustained and impugned order are liable to be quashed.; **Pala Ram v. Financial Commissioner, Haryana and others : 2004(2) Land L.R. (Pb. & Hry.) 532**

15. x x x x x x x x x x x x x x x x

16. SAVING OF TENANCIES FROM EFFECT OF MALA FIDE TRANSFER. - Save in the case of land acquired by the State Government under any law for the time being in force, or by an heir by inheritance, no transfer or other disposition of land effected after the 1st February, 1955, shall affect the rights of the tenant thereon under this Act.

17. Right Of Certain Tenants To Pre-Empt Sale Etc. Of Land. - Notwithstanding anything to the contrary contained in any law, usage or contract and subject to the provision of Section 18, a tenant of a landowner other than a small landowner:-

- (i) who has been in continuous occupation of the land comprised in his tenancy for a period exceeding four years on the date of the sale of the land or foreclosure of the right of redeem the land,
- (ii) or in case of a sale of foreclosure that has taken place or shall take within a period of three years from the commencement of this Act and there is no tenant who has acquired a right under clause (i);
- (a) who was ejected from tenancy after the 14th day of August, 1947, and before the commencement of this Act on grounds other than those mentioned in Section 9, and was in continuous occupation of the land comprised in his tenancy for a period exceeding four years on the date of his ejectment, or
- (b) who has been restored to his tenancy under the provisions of this Act and whose period of continuous occupation of the land comprised in his tenancy immediately before ejectment and immediately after restoration of his tenancy together exceed four years,

shall, in preference to the right of other pre-emptors as provided in the Punjab, Preemption Act, 1913 (Act 1 of 1913) except the descendants of vendors grandfather, be entitled to pre-empt the sale or foreclosure of the land other than the land comprised in the reserved area of the landowner in the manner prescribed in that Act within one year from the date of the sale of foreclosure, as the case may be:

Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof, if he

Section---17A and 17B

had sublet the land or the portion, as the case may be to any other person unless during that period the tenant was suffering from a legal disability or physically infirmity, or if a woman, was a widow or was unmarried.

Case Law

Section 17—Mixed Question of Fact and law—Trial Court and High Court affirmed the right to pre-emption claimed by tenant of vendor—Applicability of Section 17 of Pb. Security of Land Tenure Act or non-fulfilment of condition mentioned therein was not contested by appellant before courts below—Only issued raised was whether the respondent was a tenant in respect of disputed land—Mixed question of law and fact—Issue not raised before courts below—Appellant precluded from agitating the matter at SLP Stage—Punjab Pre-emption Act, 1913—Section 4; **Dharam Kaur v. Mukhtiar Singh; 2001(2) Land L.R. (Supreme Court) 491**

17-A. CERTAIN SALES OF TENANCY LAND NOT PRE-EMPTIBLE. - (1) Notwithstanding anything to the contrary contained in this Act or the Punjab Pre-emption Act, 1913, a sale of land comprising the tenancy of a tenant made to him by the landowner shall not be pre-emptible under the Punjab Pre-emption Act, 1913, and no decree of pre-emption passed after the commencement of this Act in respect of any such sale of land shall be executed by any court;

Provided that for the purposes of this sub-section the expression tenant includes a joint tenant to whom or part of the land comprising the joint tenancy is sold by landowner.

(2) Where, after the commencement of this Act, a tenant, to whom the land comprising his tenancy is sold by the landowner has been dispossessed of such land by a pre-emptor in execution of a decree for pre-emption or otherwise the tenant so dispossessed shall in the prescribed manner have the option either to purchase the land from the pre-emptor on payment of the price paid to the tenant by the pre-emptor or to be restored to his tenancy under the pre-emptor on the same terms and conditions on which it was held by him immediately before the sale, on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958.

(3) An application received under sub-section (2), shall be disposed of by the Assistant Collector of the first grade in the manner laid down in sub-section (2) of Section 10.

17-B. CERTAIN MORTGAGES TO BE DEEMED TENANTS UNDER THE ACT -

(1) Where after the commencement of this Act, land comprising the tenancy of a tenant is mortgaged to him with possession by the landowner and such land is subsequently redeemed by the landowner, the tenant shall, notwithstanding such redemption or any other law for the time being in force, be deemed to be the tenant of landowner in respect of such land on the same terms and conditions on

Section---18

which it was held by him immediately before the execution of the mortgage as if the mortgage, had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the prescribed manner on the same terms and conditions on which it was held by him immediately before the execution of the mortgage on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in the manner laid down in sub-section (2) of Section 10.

18. RIGHTS OF CERTAIN TENANTS TO PURCHASE LAND. - (1) Notwithstanding anything to the contrary contained in any law, usage or contract, a tenant of a landowner other than a small landowner -

- (i) who has been in continuous occupation of the land comprised in his tenancy for a minimum period of six years, or
- (ii) who has been restored to his tenancy under the provisions of this Act and whose period of continuous occupation of the land comprised in his tenancy immediately before ejection and immediately after restoration of his tenancy together amounts to six years or more, or
- (iii) who was ejected from his tenancy after the 14th day of August, 1947, and before the commencement of this Act, and who was in continuous occupation of the land comprised in his tenancy for a period of six years or more immediately before his ejection,

shall be entitled to purchase from the landowner the land so held by him but not included in the reserved area of the landowner, in the case of a tenant falling within clause (i) or clause (ii) at any time, and in the case of a tenant falling within clause (iii) within a period of one year from the date of commencement of this Act:

Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof if he had sublet the land or the portion, as the case may be, to any other person during any period of his continuous occupation unless during the period the tenant was suffering from a legal disability or physical infirmity, or, if a woman, was a widow or was unmarried:

Provided further that if the land intended to be purchased is held by another tenant who is entitled to pre-empt the sale under the next preceding section, and who is not accepted by the purchasing tenant, the tenant in actual occupation shall have the right to pre-empt the sale.

(2) A tenant desirous of purchasing land under sub-section (1) shall make an application in writing to an Assistant Collector of first Grade having jurisdiction over the land concerned, and the Assistant Collector, after giving notice to the landowner and to all other persons interested in the land and after making such

Section---18

inquiry as he thinks fit, shall determine the value of land which shall be the average of the price obtaining for similar land in the locality during 10 years immediately preceding the date of the which the application is made.

(3) The purchase price shall be three-fourths of the value of land as so determined.

(4) (a) The tenant shall be competent to pay the purchase price either in a lump sum or in six monthly instalments not exceeding ten in the manner prescribed.

(b) On the purchase price or the first instalment thereof, as the case may be, being deposited, the tenant shall be deemed to have become the owner of the land, and the Assistant Collector shall, where the tenant is not already in possession thereof.

(c) If a default is committed in the payment of any of the instalments, the entire outstanding balance shall, on application by the person entitled to receive it, be recoverable as arrears of land revenue.

(5) If the land is subject to a mortgage at the time of the purchase, the land shall pass to the tenant unencumbered by the mortgage, but the mortgage debt shall be a charge on the purchase money.

(6) If there is no such charge as aforesaid the Assistant Collector shall subject to any directions which he may receive from any Court, pay the purchase money to the landowner.

(7) If there is such a charge, the Assistant Collector shall, subject as aforesaid, apply in the discharge of the mortgage debt so much of the purchase money as is required for that purchase and pay the balance, if any, to the landowner, or retain the purchase money pending the decision of a Civil Court as the person or persons entitled thereto.

Case Law

Section 18—Haryana Utilisation of Surplus and other Areas Scheme, 1976— Clause 4—Constitution of India, Articles 14 and 226—Surplus Area—Tenants rights to allotment—Long possession— Civil Court has no jurisdiction to negate the right of the tenant once it is adjudicated upon and upheld by prescribed Competent Authority under the Act, unless orders are contrary to the provisions of the Act—Any order/judgment or decree that may adversely affect the vested rights of a party cannot bind it unless they have been heard in the matter, *Mohan L. Singh v. Jai Narain Singh* : 2002(3) Land L.R. (Pb. & Hry.) (DB) 156

Section 18—Land purchased by tenant—Surplus land—Land purchased subsequent to the order of declaring surplus land— Purchase of land is illegal as no area was declared surplus on that date— Held, That by moving such an application for purchase of land under Section 18 of the Act has played a fraud on the Court— Hence, the order was nullity.; *Bhula and Others v. Hazara Singh and Others* : 2005(3) Land L.R. (Pb. & Hry.) 218

Sections 18 and 9—Surplus land—Purchased before final declaration of surplus area—Claim of ownership not maintainable as no title is conferred—Ejection of settled tenants, on application of such purchasers not maintainable—Earlier

Section---19 and 19A

order dismissing such application cannot operate as resjudicata, on conferment of title on such purchaser.; **Bant Singh & ors. v. Financial Commissioner Punjab & ors.**: 2003(2) Land L.R. (Pb. & Hry) 617

Section 18(4)—Punjab Land Reforms Act, 1972—Section 15—Application for purchase of surplus land has been said to be barred by limitation—In the 1953 Act, period for filing application has nowhere been provided under section 15 of the 1972, limitation for exercise of right to purchase is specified as one year from the Act comes in force—Right to purchase crystallised on the date of application and not the date when payment is made—Tenants became owners much before the land vested in State—No merit in plea of limitation.; **Gurbax Singh and others v. Punjab State through Financial Commissioner, Punjab and others** : 2005(3) Land L.R. (Pb. & Hry.) 361

Section 18(4)—Punjab Security of Land Tenures Rules 1956—Rules 20-C and 23(3)—Tenant made an application for purchase of land—Thereafter paid price of it—Original owner submits since land stood acquired by the State during the period between the application and date of payment, the application stood abated—No rights passed to the tenant—In terms of Section 18(4) of the Act and Rule 20(C) of the Rules, even one instalment is paid the right of possession dates back to the date of application—Application has not abated; **Gurbax Singh and others v. Punjab State through Financial Commissioner, Punjab and others** : 2005(3) Land L.R. (Pb. & Hry.) 361

Sections 18(6)—Revision—Delay—Revisional authority should ignore the delay in challenge to fraudulent orders which are nullity—Fraud cannot be allowed to stand.; **Amar Singh v. State of Haryana** : 2002(3) Land L.R. (Pb. & Hry.) 487

19. SECTIONS 17 AND 18 NOT TO APPLY TO CERTAIN PROPERTY AND TENANTS. - Nothing contained in Section 17 or Section 18 shall affect any land which is evacuee property, as defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950) or any other land which may at any time be acquired by the Central Government for settlement of displaced persons.

19-A. BAR OF FUTURE ACQUISITION OF LAND IN EXCESS OF PERMISSIBLE AREA. (1) Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958, no person whether as landowner or tenant, shall acquire or possess by transfer, exchange, lease, agreement or settlement any land, which with or without the land already owned or held by him, shall in the aggregate exceed the permissible area:

Provided that nothing in this section shall apply to lands belonging to registered Cooperative Societies formed for purposes of co-operative farming, if the land owned by individual member of the society does not exceed the permissible area.

(2) Any transfer, exchange, lease, agreement or settlement made in contravention of the provisions of sub-section (1) shall be null and void.

Section---19B and 19C

19-B. FUTURE ACQUISITION OF LAND BY INHERITANCE, IN EXCESS OF PERMISSIBLE AREA. - (1) Subject to the provisions of Section 10-A, if after the commencement of this Act, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir any land, or if after the commencement of this Act and before the 30th July, 1958, any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands already owned or held by him, exceeds in the aggregate the permissible area then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situated in more than one patwar circle, he shall also furnish a declaration required by Section 5-A.

(2) If he fails to furnish the return and select his land within the prescribed period, then the Collector may in respect of him obtain the information required to be shown in the return through such agency as he may deem fit and select the land for him in the manner specified in sub-section (2) of Section 5-B.

(3) If such person fails to furnish the declaration, the provisions of Section 5-C shall apply.

(4) The excess land of such person shall be at the disposal of the State Government for utilisation as surplus area under clause (a) of Section 10-A or for such other purposes as the State Government may by notification direct.

Case Law

Sections 19-B, 19-C and 19-D—Haryana Ceiling on Land Holding Act, 1972—Section 12(3)—Petitioner's plea is for exemption of their land from pool of surplus area of their father—Father had sold the land to his sons in 1958—Father was a big land owner—Land in dispute came to be declared surplus in 1960—Not challenged—Order attained finality—Haryana Act came into force on January 24, 1971—Section 12(3) of Haryana Act provided that all lands declared surplus under Punjab Act of 1953, which remained unutilised and did not vest in the State, shall be deemed to have been vested in the State on the appointed day—Surplus area proceedings having become final under Punjab Act, could not be reopened in terms of Haryana Act, after 24.1.1971.; **Janga v. Zora Singh** : 2004(1) Land L.R. (Pb. & Hry.) 407

19-C. POWER TO CAUSE DELIVERY OF POSSESSION OF SURPLUS AREA. - (1) The Collector may from time to time by order in writing direct the landowner or the tenant to deliver possession of the land in his surplus area to the person resettled on such land by the State Government or any officer empowered by it within ten days of the service of the order on him.

(2) If the landowner or the tenant refuses or fails without reasonable cause to comply with an order made under sub-section (1) the Collector may cause the

Section---19D, 19DD, 19E and 19F

possession of the land in the surplus area to be delivered to the person resettled on it and may for that purpose use such force as may be necessary.

19-D. EXEMPTION OF CERTAIN LANDS. - The provisions of this Act shall not apply to lands granted to any member of the Armed Forces of the Union for gallantry.

19-DD. EXEMPTION OF LANDS GRANTED FOR GALLANTRY BEFORE 26TH JANUARY, 1950. - Notwithstanding anything contained in this Act where any land is granted for gallantry, at any time before the 26th January, 1950, to any member of the Armed Forces, whether maintained by the Central Government, or by any Indian State, then, so long as such land or any portion thereof as the case may be, has not passed from the original grantee into more than three successive hands, by inheritance or bequest, or is held by the grantee or any such hands, such land or portion as the case may be shall not be taken into account in computing the surplus area under this Act, nor shall any tenant of such land or portion have the right to purchase it under Section 18:

Provided that where land or portion as the case may be has passed into more than three such hands and the person holding such land or portion, immediately before the 3rd August, 1967, is a person to whom it has passed by inheritance or bequest, the exemption under this section shall apply to such land or portion thereof, as the case may be, during the life time of such person.

19-E. LAND OWNED BY HINDU UNDIVIDED FAMILY TO BE DEEMED LAND OF ONE LANDOWNER. - Notwithstanding anything contained in this Act or in any other law for the time being in force -

- (a) where, immediately before the commencement of this Act, a landowner and his descendants constitute a Hindu undivided family the land owned by such family shall, for the purposes of this Act, be deemed to be the land of that landowner and no descendant shall, as member of such family, be entitled to claim that in respect of his share of such land he is a landowner in this own right; and
- (b) a partition of land owned by a Hindu undivided family referred to in clause (a) shall be deemed to be a disposition of land for the purposes of Sections 10-A and 16.

Explanation - In this section, the expression "descendant" includes an adopted son.

19-F. REMOVAL OF CERTAIN DOUBTS. - For the removal of doubts it is hereby declared -

- (a) that the State Government or any officer empowered in this behalf shall be competent and shall be deemed always to have been competent, to determine in the prescribed manner the surplus area referred to in Section 19-A of a landowner out of the lands owned by such landowner immediately before the commencement of this Act; and

Section---20, 21 and 21A

- (b) that for evaluating the land of any person at any time under this Act, the land owned by him immediately before the commencement of this Act, or the land acquired by him after such commencement by inheritance or by bequest or gift from a person to whom he is an heir, shall always be evaluated for converting into standard acres as if the evaluation was being made on the date of such commencement, and that the land acquired by him after such commencement in any other manner shall always be evaluated for converting into standard acres as if the evaluation was being made on the date of such acquisition.

20. RESTRICTION ON TENANTS. - Nothing contained in this Act shall entitle a tenant to purchase land in excess of the permissible area, including the land which he may already own.

21. SAVING OF TENANTS AND LESSEES UNDER GOVERNMENT. - (1) Nothing contained in this Act shall affect any land held by a tenant or lessee under Government, or local bodies in the State, or any unallotted evacuee land.

(2) The provisions of Sections 9, 9-A and 18 shall not apply to lands leased out by the Punjab State Co-operative Land Mortgage Bank Limited established under the Punjab Co-operative Land Mortgage Banks Act, 1957.

Case Law

Section 21—Punjab Village Common Lands (Reg.) Act, 1961— Section 7—Punjab Village Common Lands (Reg.) Rules, 1964—Rule 19—As per orders of the Asstt. Collector 1st Grade, confirmed by Collector and Commissioner, petitioner was ordered to be ejected from the land which he took on lease for one year from Gram Panchayat, lease not renewed thereafter—Orders are challenged by this writ petition—Petitioners denied that Gram Panchayat was owner and further submitted that this question of title should have been decided by Asstt. Collector and then proceed further—After having taken the land on lease from Gram Panchayat, he could not deny the ownership of the lessor—His possession after expiry of lease is unauthorised—Vires of the Rule 19 which defines the unauthorised person has been upheld as per 1969 PLJ 378—Unauthorised occupant can be ejected under Section 7 of the Pb. V.C.L. Act read with Rule 19—Provisions of Punjab Security of Land Tenures Act, 1953 do not apply to Panchayat lands—Writ petition dismissed with costs.; *Ved Parkash v. Commissioner, Ambala Division, Ambala : 2003(3) Land.L.R. (Pb. & Hry.) 440*

21-A. POWER TO REMOVE DIFFICULTIES BY MODIFICATION OF PROVISIONS IN CERTAIN CASES. - (1) The State Government may, for the purpose of preventing or removing any hardship or difficulty, by a special or general order, to be notified in the official Gazette direct that any of the provisions of this Act shall apply to any class of tenants or owners, with such modifications, as may be specified in that order.

(2) Any order made under sub-section (1) shall be laid before both the Houses of Legislature during the session next following after the making of such order, and

Section---22, 23 and 24

unless the said order is approved by both the Houses of the Legislature, with or without modification, it shall cease to have effect.

22. PROCEDURE FOR EJECTMENT. - Any dispute relating to rent payable by a tenant, or any objection relating to the permissible area, not otherwise expressly provided for in this Act, shall be determined in a summary manner as provided for in Section 14-A; provided that the order of the Commissioner, in appeal or revision in the ordinary course, shall be final.

23. ABROGATION OF PENDING DECREES, ORDERS AND NOTICES. - No decree or order of any court or authority and no notice of ejectment shall be valid, save to the extent to which it is consistent with the provisions of this Act.

24. APPEAL, REVIEW AND REVISION. - The provision in regard to appeal, review and revision under this Act shall, so far as may be, be the same as provided in Sections 80, 81, 82, 83 and 84 of the Punjab Tenancy Act, 1887 (Act XVI of 1887).

Case Law

Section 24—Punjab Tenancy Act, Section 84—Determination of surplus area—Suo motu proceedings initiated after 30 years—The words "Suo moto" have to be used with some sense of natural justice and discretion—Ridiculous for State which formerly attached the land of a person, auctioned it and then maintain that its liability to re-determined as surplus be re-opened—Before re-determining the status of land the transferees had right to be heard and served with notice; **Bhagat Singh and others v. State of Haryana and others; 2001(1) Land L.R. (FC, Hry.) 155**

Section 24—Punjab Tenancy Act, 1887—Section 84—Civil Procedure Code, 1908—O.39 R.1 and 2—Conclusive finding—Application for deposit of rent—On basis of jamabandi and Khasra girdawari, allowed—Set aside by commissioner and Collector on basis order of Civil Court—Add. District Judge hold that there is no landlord-tenant relationship with observation that opinion expressed would not effect merits of the case—Held—Case to be decided on own merits—Petitioners to be held tenants unless proved otherwise by Court—Revision allowed; **Arjan Singh v. Bhupinder Chand : 2002(3) Land L.R. (F.C. Punjab) 133**

Section 24—Revision—Ejectment—Application in Form L—Held—As per revenue record ownership of land is joint and respondent has not become exclusive owner—Application not maintainable; **Ajit Singh v. Charan Kaur : 2003(1) Land L.R. (Pb. & Hry.) 649**

Section 24(2)—Haryana Ceiling on Land Holdings Act, 1972—Section 8 and 12—Surplus Area—Proceedings which have become final under the Pb. Security of Land Tenures Act with regard to declaration of surplus area could be reopened or re-evaluated by taking benefit of the Ceiling on Land Holdings Act; **Dharam Pal v. State of Haryana : 2002(2) Land L.R. (Pb. & Hry.) 466**

Section 24(2)—Haryana Ceiling on Land Holdings Act, 1972—Section 8 and 12—Surplus Area—Proceedings which have become final under the Pb. Security of Land Tenures Act with regard to declaration of surplus area could be reopened

Section---24A and 25

or re-evaluated by taking benefit of the Ceiling on Land Holdings Act; **Dharam Pal v. State of Haryana : 2002(2) Land L.R. (Pb. & Hry.) 466**

Section 24(2)—Haryana Ceiling on Land Holdings Act, 1972—Section 8 and 12—Surplus Area—Proceedings which have become final under the Pb. Security of Land Tenures Act with regard to declaration of surplus area could be reopened or re-evaluated by taking benefit of the Ceiling on Land Holdings Act; **Dharam Pal v. State of Haryana : 2002(3) Land L.R. (Pb. & Hry.) (DB) 272**

24-A. POWER TO SEPARATE SHARE OF LANDOWNER IN JOINT LAND - (1) Where a landowners owns land jointly with other landowners and his share of such land or part thereof as ascertained from the record of rights has been or is to be declared as surplus area, the officer competent to declare such area or, where such area has been declared, the officer competent to utilise it, may on his own motion, summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or part thereof in the land owned by him jointly with other landowners.

(2) Where, after the declaration of the surplus area of any person and before the utilisation thereof, his land has been subjected to the process of consolidation, the officers referred to in sub-section (1) shall be competent to separate the surplus area of such person out of the area of land obtained by him after consolidation.

Case Law

Section 24A(2)—Haryana Ceiling of Land Holdings Act, 1972—Sections 4 and 8, 12 and 15(5)—Unutilised surplus Area—Land once declared surplus under Pb. Security & Land Tenures Act, would be deemed to have vested in the State or acquired for public purpose, even if remained unutilised; **Dharam Pal v. State of Haryana : 2002(2) Land L.R. (Pb. & Hry.) 466**

Section 24A(2)—Haryana Ceiling of Land Holdings Act, 1972—Sections 4 and 8, 12 and 15(5)—Unutilised surplus Area—Land once declared surplus under Pb. Security & Land Tenures Act, would be deemed to have vested in the State or acquired for public purpose, even if remained unutilised; **Dharam Pal v. State of Haryana : 2002(2) Land L.R. (Pb. & Hry.) 466**

Section 24A(2)—Haryana Ceiling of Land Holdings Act, 1972—Sections 4 and 8, 12 and 15(5)—Unutilised surplus Area—Land once declared surplus under Pb. Security & Land Tenures Act, would be deemed to have vested in the State or acquired for public purpose, even if remained unutilised; **Dharam Pal v. State of Haryana : 2002(3) Land L.R. (Pb. & Hry.) (DB) 272**

25. EXCLUSION OF COURTS AND AUTHORITIES. - Except in accordance with the provisions of this Act the validity of any proceedings or order taken or made under this Act shall not be called in question in any Court or before any other authority.

Section---26, 27 and 28

26. INDEMNITY. - No suit or other legal proceedings shall lie against any authority in respect of anything done in good faith in pursuance of the provision of this Act.

27. POWER TO MAKE RULES. - The State Government may by notification in the official Gazette make rules for carrying out the purposes of this Act.

28. REPEAL AND SAVINGS. - The Punjab Tenants (Security of Tenure) Act, 1950 (Act XII of 1950) and the Punjab Tenants (Security of Tenures) Amendment Act, 1951, President's Act (V of 1951), are hereby repealed but, notwithstanding such repeal and notwithstanding the expiry of the Prevention of Ejectment (Temporary Powers) Ordinance, 1952, anything done or any action taken in the exercise of any power conferred by or under the Acts or the said Ordinance to the extent of its being consistent with the provision of this Act, shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action taken.

LATEST, IMPORTANT AND SELECTED CASE LAW

Punjab Land Reforms Act, 1972—Surplus Area—Permissible area—Admittedly, the land purchased by the petitioners was out of area which was declared surplus under the old Act—The said area could not have been sold after the appointed date i.e. 24.1.1971—The said surplus area vested in the State under the provisions of the 1972 Act and was accordingly allotted to the contesting respondents—Allotment in favour of contesting respondents has not been set aside—No right could be acquired by the petitioners in respect of area which was vested in the State and was allotted to the contesting respondents—LPA dismissed. ; **Pritam Kaur v. State of Punjab : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) (DB) 9**

Haryana Ceiling on Land Holdings Act, 1972, Sections 12(3) and 8(1)(a)—Haryana Utilisation of Surplus and other Areas Scheme, 1976—Land declared surplus under Punjab Security of Land Tenures Act—Surplus land would automatically vest in State of Haryana on coming into force Haryana Ceiling on Land Holdings Act, 1972 with effect from 24-1-1971 by virtue of Section 12(3) of Haryana Ceiling Act, 1972—Vesting of surplus Area—Authority would be free to utilize the land under the scheme, 1976. ; **Megh Raj and others v. Manphool and others : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 386**

Civil Procedure Code, 1908, Order 23, Rule 1(4) (b)—Withdrawal of earlier suit without permission of Court—The plaintiff filed suit for possession on the basis of title—Defendants in that suit took stand that they were mortgagees—The plaintiffs withdrew that suit to enable them to file redemption application before the Collector—Redemption application dismissed by the Collector—Plaintiff filed present suit for possession within one year—Plaintiffs got a fresh cause of action after the decision of Collector—Held; Thus it cannot be said that the plaintiffs debarred from filing the present suit in view of the fact that the earlier suit filed by them was dismissed as withdrawn without permission to file fresh one on the same cause of action. ; **Gurdeep Singh v. Dera Gossian : 2008(3) ALL INDIA LAND LAWS REPORTER (P&H) 376**

Civil Procedure Code, 1908, Order 23, Rule 1—Punjab Tenancy Act, 1887—Civil Court has no jurisdiction to entertain the suit for possession of the agricultural land as the suit for eviction of a

lessee/tenant can be filed only before the Revenue Court under the provisions of the Punjab Tenancy Law read with Punjab Security of Land Tenure Act, 1953—The provisions of the those Acts are applicable only in case the landlord wants to eject the tenant from the agricultural land—There is no evidence that the defendants are tenants on the suit land—Once it has been found that they are not the lessee of the suit land, it cannot be said that the present suit is not maintainable in view of the provisions of the Punjab Tenancy Law read with Punjab Security of Land Tenure Act, 1953. ; **Gurdeep Singh and others v. Dera Gossian and another : 2008(3) ALL INDIA LAND LAWS REPORTER (P&H) 727**

Punjab Land Reforms Act, 1972—Section 11(5) and (7)—Surplus Area—Determination of—Whether the surplus area which has once been determined, require redetermination in the hands of his heirs or is the determination of surplus area final and binding on the heirs?—Require Redetermination—Held; That until the surplus area has been finally determined by the Collector and appeals/revisions have been dismissed, the death of the landowner would certainly cause affectation to the surplus area which would be required to be redetermined in the hands of his heirs. Resultantly, where the surplus area has not been finally determined, and the matter is pending in appeals or revisions before the Revenue Courts or before this Court under Article 226 of the Constitution, or before the Supreme Court of India, death of the landowner would cause affectation of surplus area which would be required to be redetermined in the hands of the heirs of the deceased landowner. Such an interpretation would harmoniously construct the provisions of Section 11(5) and 11(7) and also give a proper interpretation to both the views expressed in case. ; **Sardara Singh v. Financial Commissioner : 2008(2) ALL INDIA LAND LAWS REPORTER (P&H) (FB) 61**

Punjab Land Refroms Act, 1972—Section 11(5) and (7)—Surplus Area—Determination of—Whether the surplus area which has once been determined, require redetermination in the hands of his heirs or is the determination of surplus area final and binding on the heirs?—Require Redetermination—Contention that until the final determination of surplus area, it is Section 11(5) that shall apply and not Section 11(7)—The final determination is the stage when calculation of surplus area has been completed, whether by the Collector or in appeal/revision by the hierarchy of the revenue courts upto the Financial Commissioner. It would be only when the remedy of final appeal/revision has been exhausted that it could be

said that surplus area had been finally determined—Contention upheld. ; **Sardara Singh v. Financial Commissioner : 2008(2) ALL INDIA LAND LAWS REPORTER (P&H) (FB) 61**

Haryana Ceiling on Land Holdings Act, 1972, Section 8(1) (a), 12(3) and Section 26—Haryana Utilisation of Surplus and other Areas Scheme 1976—Surplus land—Jurisdiction of Civil Court—The order declaring the suit land surplus, under the Punjab Act, has attained finality as order was not challenged and the suit land vested in the State of Haryana, it became available for allotment under the Utilisation Scheme. The Prescribed Authority, therefore, was well within its jurisdiction, in proceeding to allot the land. The order passed by the Prescribed Authority—The jurisdiction of Civil Courts to entertain the suit, impugning the legality of the order passed by the Prescribed Authority was barred by the provisions of Section 26 of the Haryana Act. ; **Megh Raj v. Manphool : 2008(2) ALL INDIA LAND LAWS REPORTER (P&H) 493**

Civil Procedure Code, 1908, Section 94, Order 21, Rule 82—Haryana Ceiling on Lands Holdings Act, 1972, Section 12(3)—Surplus land—Execution of decree of Civil Court—Scope of—Father of petitioner was a big land lord—Vide order 5.1.1960 the land measuring 242 kanal 4 marlas owner by him was declared surplus by the prescribed authority—The said land vested in state in view of the provision sub Section (3) of Section 12 the Ceiling Act from the appointed date i.e. 24.1.1971 on the State become the absolute owner of the said land—Petitioner challenging the order dated 5.1.1960 passed by the prescribed authority on 16.4.1986 Civil Court decreed the suit declaring the ordered 5.1.1960 as illegal, null and void its judgment and decree dated 17.4.1992—Execution of decree dated 17.4.1992—Ld. Courts below dismissed the execution petition—Validity thereof—Held; Inter alia—Any judgment, decree or order of a Court or other authority, obtained after the appointed day and having the effect of diminishing the surplus area shall be ignored—Civil Suit below the civil Court was not maintainable in view of Sections 12(4) and 26 of Act—Decree passed by a Court without Jurisdiction is nullity—Order of Courts below affirmed. ; **Mohinder Singh v. State of Haryana : 2008(1) ALL INDIA LAND LAWS REPORTER (P&H) 266**

Tenant's permissible area—A tenant is to establish (i) from 15.4.1953 on consideration of surplus area case he remained in continuous occupation as a tenant, and (ii) he was a tenant on the land at the time of declaration of surplus land—Change of tenants during the interregnums would be immaterial. ; **Makhan Singh v.**

State of Haryana and others : 2006(2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry) 660
Haryana Ceiling on Land Holdings Act, 1972 Section 14—Surplus area—Separation after consolidation—Consolidation has taken place after the orders dated 31.8.1961 and 11.02.1963 declaring the land in question as surplus—As per Section 14 of 1972 Act prescribed procedure has not been followed as the land has not been utilised till 20.4.1978 i.e. order of allotment—Surplus area after consolidation was not separated—Held, A competent officer who is empowered to utilize the surplus area if a land owner owns land jointly and his share of such land has been declared surplus—Held, Further once the surplus area has been declared under the 1953 Act or any other Punjab Law then a landowner cannot seek determination on the same as the surplus area has come to be vested in the state.; **Bhag Mal and Others v. Ram Murti and Others : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 100**
Order passed by the Financial Commissioner—Not a speaking order—Financial Commissioner while adjudicating disputes under the Act is a quasi-judicial authority and the final authority at a conclusion this way or that—The orders must be clearly discernible from the order passed.; **Jage (Died) through LRs. v. State of Haryana and others : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 183**
Punjab Utilization of Surplus Area Scheme, 1973, Para 13—Whether the relationship of landlord and tenant survives, when a sitting tenant is allotted land under the Punjab Law, prior to the coming into force of the Reforms Act ? Held, NO—The relationship comes to an end—Not only the allotment be deemed to be one under the Scheme framed under the Reforms Act but as the tenant would be a sitting tenant the land would be deemed to have been utilised and vested in the State.; **Jagat Singh and another v. Financial Commissioner, Punjab and others : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 205**
Punjab Land Reforms Act, 1972—Land under the old tenants from the purview of surplus order—Land purchased by petitioners from such tenants—Respondents changed declaration of surplus area and declared land as surplus—Land cannot be declared surplus when already existing order of Special Collector.; **Malawa Ram v. State of Punjab : 2006(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 363**
Pepsu Tenancy and Agricultural Lands Act, 1955—Section 18(1)—Haryana Ceiling of Land Holdings Act, 1972 Section 8(1)—Order by collector—Without notice to party—Nullity—Challengeable in civil court—Even if the statute expressly bars the jurisdiction of the civil court to entertain a suit to challenge the validity or legality of the order passed by such a tribunal.; **State of Haryana v. Smt. Punni : 2005(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 112**
Pepsu Tenancy and Agricultural Lands Act, 1955—Section 18(1)—Haryana Ceiling on Land Holdings Act, 1972—Section 8(1)—Permissible area—Land in excess of—Protection against—Held, That the transfers made prior to 30.7.1958 of land in excess of permissible area under the Act or Pepsu Tenancy and Agricultural Lands Act, 1955 were protected and the said sale deeds could not be ignored while determining surplus area as the same was protected by Section 8(1) of Haryana Ceiling on Land Holdings Act, 1972.; **State of Haryana v. Smt. Punni : 2005(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 112**
Sections 2(3) and 2(5-a)—Surplus area—Relevant date—Transfer by petitioner held invalid as sale deeds were executed and mutation recorded subsequent to the relevant date 30.7.1958—Held—Where registered Sale deeds are executed, possession is parted with, complete title is transferred to the vendees from the vendors, the relevant date would be the date registered sale deed when consideration is passed and document is registered—Merely that mutations were recorded in the year 1966 and thereafter would no way alter the date of transfer by virtue of the sale deed.; **Buta Ram (died) repled. by LRs & Anr. v. State of Haryana & Ors. : 2003(2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 151**
Section 2(8)—Only question to be decided is if the lands described as, Banjar Jadid, Banjar Qadim and Ghair mumkin, can be taken into consideration for the purposes of computing surplus area—Answer is No—Such land are not lands as per section 2(8) of the 1953 Act—Cannot be taken into account for computing surplus area.; **Dharam Singh (deceased) L.Rs. and others v. Bhagwan Singh and others : 2005(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 172**
Sections 4 and 5—Unauthorised Occupation—Services of the petitioner terminated—Eviction order shows in unauthorised occupation of premises in suit dispute—No material placed on record to show that there was allotment to the petitioner or his wife subsequently—Petition dismissed.; **Ram Parshad v. Punjab State Forest Department Through Range Officer & Ors : 2005(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 276**
Section 5(B)—Constitution of India, Articles 226 and 227—Punjab Land Reforms Act, 1972, Sections 8, 11(7), 28—Surplus land declared after remand—Exparte order of—Death of landowner—The decision of

the Collector in the absence of landlord is fully justified and Form 'F' was ordered to be issued—It makes no provision for benefit of fragmentation to the heirs of big landowners, who had died and, therefore, whether such benefit has been given under the old Acts or not, there is not scope for doing so now, harsh though the impact may be—Section 11(7) of the new Act emphatically states that notwithstanding the death of the landowner, his surplus area is to be taken into possession by the State and utilized as prescribed—Landlord died after the commencement of this Act and his heirs cannot claim such benefit and there is no justification to interfere with the order of the Collector confirmed the Commissioner in appeal—The area which stood mortgaged was got redeemed by the big landowner and the same was directed to be counted in the holding of the landowner, who as per Annexure P-1 did not appear and ultimately, the Collector Agrarian while exercising powers under Section 5-B of the Punjab Security of Land Tenures Act, 1953, ordered issuance of Form F—The petitioners cannot be given the benefit as provided under Section 11(7) of the Land Reforms Act, 1972—Petition dismissed. ; Baldev Singh and others v. State of Punjab and others : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 325

Rule 6(3)—Punjab Security of Land Tenures Act, 1953, Sections 24 A(2b), 10(A), 10(B)—Surplus area—Declaration of—Doctrine of 'acceleration succession'—Last male holder kept back all the land with himself—He in order to get over the provisions of Pepsu Tenancy and Agricultural Lands Act, parted with the surplus land in favour of his sons and daughters—The gift cannot be held to be acceleration of succession—The doctrine of "acceleration succession" will only apply where the last male holder completely effaces himself. ; Bharpai v. Financial Commissioner, Haryana, Chandigarh : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 272

Rule 6(3)—Punjab Security of Land Tenures Act, 1953, Sections 24 A(2b), 10(A), 10(B)—Surplus area—Declaration of—Interested/concerned persons—Notice—Petitioners in order to get over the relevant provision of the Act, executed and registered gift deed in favour of her own daughters qua her land—She had not completely effaced herself—The land had not come to the petitioners on the opening or acceleration of succession—Thus, notice was not required to be issued to the petitioners—Non-giving of the notice to them in no manner amount to violation of cardinal canons of natural justice—The alleged gift in favour of the petitioners is repugnant to the basic Scheme of the Act—The area stood already declared surplus on 1.1.1960 by the competent authority—No case is made out for

quashing the impugned order. ; Bharpai v. Financial Commissioner, Haryana, Chandigarh : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 272

Rule 6(3)—Punjab Security of Land Tenures Act, 1953, Sections 24 A, 10(A), 10(B)—Surplus area—Declaration of—Notice to interested persons—Expression 'interested/concerned persons'—Explained—*Inter alia*; Such persons are those whose interest is likely to be affected by such declaration of surplus area—They may be the original owners of the land, old tenants and the persons who have a legal right in the land which is subject matter of the proceedings and the right which is recognized or recognizable under the Act—An opportunity of being heard is to be afforded to the persons concerned—

IN FACTS

Petitioners allegedly got the land on the basis of the Gift dated 3.1.1960, obviously after 15.4.1953—Petitioner did not completely effaced herself—No notice was required to be issued to the petitioners—They are not entitled for an opportunity of hearing—Writ dismissed. ; Bharpai v. Financial Commissioner, Haryana, Chandigarh : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 272

Rule 6(3)—Notice on Form 'F'—Natural Justice—Requirement of service of notice on all persons interested is based upon principles of natural justice requiring an opportunity being afforded to any person who is likely to be prejudicially affected by an order which might be passed in the relevant proceedings such a notice cannot be dispensed with or ignored on the mere ground that particular transferees who may otherwise be deemed to be the persons interested in the proceedings have really no good defence to the proposed order, it is manifest that notice under Rule 6(3) has to be issued in the proceedings before the Circle Revenue Officer only to such persons whose names may be mentioned in Form 'D' prepared by the Patwari or whose names may be shown in the relevant revenue records available to the Circle Revenue Officer as either vendees or donees or other transferees or tenants of the land which is proposed to be included in the surplus area of the original landowner. In the absence of notice, entire proceedings shall vitiate. ; Anoop Singh and others v. The State of Haryana and others : 2009(1) ALL INDIA LAND LAWS REPORTER (MARCH PART)

Section 8—Punjab Village Common Lands (Regulation) Act 1953, Section 2(g)—Punjab Public Premises (Eviction & Rent Recovery) Act, 1973, Sections 3, 4 & 7—Unauthorised occupation—Lawful tenant—A

lawful tenant is one who has been admitted as tenant after following due procedure of law—in case the Sarpanch or any Panch inducts some one as tenant without following the procedure prescribed under the Rules, then such induction of the person will not be authorised or lawful and the Gram Panchayat will not be bound by that—Simply some one has paid or deposited the rent with the Gram Panchayat voluntarily after unauthorisedly occupying the Gram Panchayat land, he would not be deemed to be tenant. ; Gram Panchayat, Vill Haripura v. Commissioner, Ferozepur Division and anr. : 2006(3) ALL INDIA LAND LAWS REPORTER (SC) 585

Section 9—Agricultural land granted tenancy to tenant for 20 years—After expiry of lease period tenant becomes statutory tenant and not an unauthorised tenant—And such tenant can be evicted only in terms of one or the other grounds of eviction contemplated under Section 9 of the Punjab Security of Land Tenures Act, 1953—Such eviction proceedings have to be initiated before the competent Revenue Court—Any illegality or irregularity in the finding recorded that the Civil Court has no jurisdiction to grant a decree for possession—Appeal dismissed. ; Ram Lal v. Darshan Lal and others : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 370

Section 9(i) (ii) and 14-A (i)—Land Acquisition Act, 1894, Section 30—Entitlement of compensation—Tenants over the acquired land—Respondent nos 3 to 13 were tenants under the appellants at one point of time—Assistant Collector 1st Grade held that respondents nos. 3 to 13 were not tenants under the appellants—Ld. Collector accepted the appeal of the tenants and directed to deposit the arrears of rent—Respondents never complied with the order—They have no right to continue as such—Respondents nos. 3 to 13 are not entitled to any amount of compensation.; Shanti Devi v. State of Haryana : 2008(1) ALL INDIA LAND LAWS REPORTER (P&H) (DB) 517

Sections 9(1) (ii), 14-A(i)—Ejectment of tenant—Non payment of rent — Assistant Collector passed order of ejectment on tenant's failure to tender the rent — Whether such an order is sustainable? Held, No—He was duty bound to assess the arrears of rent, interest and cost of application and to quantify by way of interim or provisional order which the tenant had to pay within 15 days from the date of such hearing—Non-compliance of provisions of Section 14-A(i) of the Act cannot be sustained. ; Amar Singh and others v. F.C. Haryana & Ors. : 2006(3) ALL INDIA LAND LAWS REPORTER (P&H) 452

Sections 9(1) (ii), 14-A(i)—Ejectment of tenant for non payment of rent — Procedure—Section 9 lays down the grounds on which ejectment can be sought — Section 14 provides for the procedure to

be followed. ; Amar Singh and others v. F.C. Haryana & Ors. : 2006(3) ALL INDIA LAND LAWS REPORTER(P&H) 452

Section 9(1)(ii) 14-A(i)—Eviction—Non payment of rent/Batai inspite of demand—Assistant Collector passing order of ejectment—On challenge before the Collector; Collector remanding the matter holding that Assistant Collector is legally bound to calculate the arrears of rent and interest and to inform the tenant so that the amount could be paid—Commissioner upholding the findings of Collector—On revision Financial Commissioner reversed the findings of Commissioner and Collector on the ground that the land owners cannot be penalised for the default of Assistant Collector by not calculating the interest, when the amount of rent/batai was known to the tenants—Whether the findings of Financial Commissioner is sustainable in the law? NO - Writ allowed—Impugned order set-aside—Orders passed by the Collector and Commissioner restored inter alia on the following grounds:-

(Law discussed) (i) The Collector has to follow the procedure laid down as per provisions of Section 14-A of the Act.

(ii) The Assistant Collector was duty bound to assess the arrears, interest, costs of application and then to quantify by way of interim order which the tenant had to pay or tender within 15 days from the date of such hearing.; Amar Singh and others v. F.C. Haryana and others : 2006(2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 296

Section 9(1)(i)—Ejected tenant—Petitioners—Orders of ejectment subject to resettlement of petitioners on equivalent land available from separate pool—Allotment made—Petitioner resisted this allotment on grounds of poor quality of land as also being taken away from his residence—Prayed for allotment some surplus land nearer his place—On persistent requests, Commissioner allotted land in lambar dar village, already in occupation of armed forces, possession to be given on armed forces vacating the land- It was later found by FC that Forces occupation was to be continued indefinitely and thus FC revived its earlier order—Review is under challenge.; Des Raj alias Deso v. Financial Commissioner, Taxation, Punjab and others: 2004(1) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 316

Sections 9 (1)(i) and 77—Transfer of Property Act, 1882—Section 54—Ejectment proceedings pending before revenue court, landlords/Tenants enter into an agreement to sell land as per time bound programme—Half of earnest money paid—Thereafter tenants, prospective vendors, neither paid half of the earnest money, nor adhered to the time schedule for execution of the sale deed—And also

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stopped paying batai to the petitioners /landlords—Collector ordered ejectment—Upheld by Commissioner in appeal but F.C. set aside the order—It was held that agreement to sell entered, put an end to the relationship of landlord tenants challenge to the observation is by this Civil Writ Petition—Under Section 54 of T.P.A. it cannot be said that mere execution of the sale agreement does not mean the right of the lessor has come to an end—Mere agreement to sell does not confer any title—Relationship of landlord Tenants are not swapped. ;

Harkaran Singh and ors. v. Financial Commissioner Haryana and ors. : 2004(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 217

Section 9-A, First Proviso—Ejected Tenants—Resettlement of— All of ejected tenants to be resettled to the extent of 5 standard including another land held or owned by them and not each individual ejected tenant.; **Dona Ram v. State of Punjab : ALL INDIA LAND LAWS REPORTER (F.C. Pb) 241**

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Panchayat, lease not renewed thereafter—Orders are challenged by this writ petition—Petitioners denied that Gram Panchayat was owner and further submitted that this question of title should have been decided by Asstt. Collector and then proceed further—After having taken the land on lease from Gram Panchayat, he could not deny the ownership of the lessor—His possession after expiry of lease is unauthorised—Vires of the Rule 19 which defines the unauthorised person has been upheld as per 1969 PLJ 378—Unauthorised occupant can be ejected under Section 7 of the Pb. V.C.L. Act read with Rule 19—Provisions of Punjab Security of Land Tenures Act, 1953 do not apply to Panchayat lands—Writ petition dismissed with costs.; **Ved Parkash v. Commissioner, Ambala Division, Ambala** : 2003(3) Land.L.R. (Pb. & Hry.) 440

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Section 24—Revision—Ejectment—Application in Form L—Held—As per revenue record ownership of land is Joint and respondent has not become exclusive owner—Application not maintainable; **Ajit Singh v. Charan Kaur** : ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 649

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Sections 24 A, 10(A), 10(B)—Punjab Security of Land Tenures Rules, 1956, Rule 6(3)—Surplus area—Declaration of—Notice to interested persons—Expression 'interested/concerned persons'—Explained—Held; Inter alia; Such persons are those whose interest is likely to be affected by such declaration of surplus area—They may be the original owners of the land, old tenants and the persons who have a legal right in the land which is subject matter of the proceedings and the right which is recognized or recognizable under the Act—An opportunity of being heard is to be afforded to the persons concerned—ON FACTS

Petitioners allegedly got the land on the basis of the Gift dated 13.1.1960, obviously after 15.4.1953—Petitioner did not completely efface herself—No notice was required to be issued to the petitioners—They are not entitled for an opportunity of hearing—Writ dismissed. ; **Bharpai v. Financial Commissioner, Haryana, Chandigarh : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 272**

Section 27(e)—Punjab Tenancy Act, 1887, Section 4(1)—Land Revenue Assessment Rules, 1929, Rule 2(2)—Surplus area—'Gair Mumkin' as well as 'Barani' Land computed towards total holding of the landowner for assessing the surplus area—The 'Barani' Land if falls within the ambit of 'Banjar Jadid' or 'Banjar Kadim' has to be excluded from surplus area—Matter remitted to the Collector to

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ascertain the extent of Gair Mumkin land, Banjar Kadim and Banjar Jadid at the relevant date and recompute the permissible area and decide the case afresh. ; **Wing Commander Paramprit Singh v. State of Punjab : 2009(1) ALL INDIA LAND LAWS REPORTER (P&H) 135**

Rule 6—Surplus Area Proceedings—Whether surplus proceedings finalised without issuance of notice to the tenant are violative of the provisions of the Act and the principles of natural justice ? Held, Yes—Such proceedings would be void vis- a-vis the rights of the tenant being violative of the provisions of the Act and the principles of natural justice. ; **Makhan Singh v. State of Haryana and others : 2006(2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry) 660**

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