Dalip Ram vs State Of Punjab on 2 January, 2025

Author: C.T. Ravikumar

Bench: C.T. Ravikumar

2025 INSC 12

Reportable/Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Special Leave Petition (C) No. 8687 of 2012

Dalip Ram

…Appellant(s)

Versus

The State of Punjab & Ors.

…Respondent(s)

With

Special Leave Petition (C) No. 1668 of 2019
Special Leave Petition C) No. 34380 of 2012
Special Leave Petition (C) No. 34382 of 2012
Special Leave Petition (C) No. 34381 of 2012
Special Leave Petition (C) No. 33833 of 2012
Special Leave Petition (C) No. 33831 of 2012
Special Leave Petition (C) No. 33998 of 2012
Special Leave Petition (C) No. 33832 of 2012
Special Leave Petition (C) No. 33764 of 2012
Special Leave Petition (C) No. 34678 of 2012
Special Leave Petition (C) No. 38532 of 2012
Special Leave Petition (C) No. 205-208 of 2014
Special Leave Petition (C) No. 22206-22209 of 2013
Special Leave Petition (C) No. 19680 of 2013
Special Leave Petition (C) No. 30491 of 2013
Special Leave Petition (C) No. 488 of 2014
Special Leave Petition (C) No. 486 of 2014
Special Leave Petition (C) No. 36797 of 2013

Special Leave Petition (C) No. 6181 of 2014
Special Leave Petition (C) No. 17304-17305 of 2014
Special Leave Petition SLP (C) No. 30271 of 2014
Special Leave Petition (C)...CC No. 6152 of 2015
Special Leave Petition (C) No. 15510 of 2015
Special Leave Petition (C) No. 17550-17552 of 2015
Special Leave Petition (C) No. 24350 of 2015
Special Leave Petition (C) No. 24357 of 2015
Diary No(s). 12497 of 2017
Special Leave Petition (C) No. 13391 of 2018
Special Leave Petition (C) No. 26164 of 2018

JUDGMENT

C.T. RAVIKUMAR, J.

1. The contentions and the factual matrix involved in the captioned Special Leave Petitions would reveal that the bone of contentions in them, essentially is one and the same viz., whether the subject lands were Shamlat deh, allotted (if at all allotment was there) on quasi- permanent basis to displaced person(s) or whether they were Shamlat deh otherwise transferred to any person by sale or by any other manner whatsoever after commencement of Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act'). An answer to that question in the affirmative would fetch protection to such allotment or transfer by sale or by any other manner, statutorily by virtue of the amendment of Section 2(g)(ii-a) of the Act. Hence, the fate of most of these Special Leave Petitions is dependent mainly on that question. Needless to say, that some allied questions may also crop up for consideration. Special Leave Petition No.8687 of 2012 is taken as the lead case and wherever any allied question also crops up and if found relevant, we will refer to such question(s) appropriately and also deal with them. Before dealing with the lead case and also the contentions, it will not be inappropriate to state that a scanning of all the above Special Leave Petitions would reveal that all the aforesaid cases have been pending for a long time and in fact, some of them were pending for more than three decades.

Special Leave Petition No.8687 of 2012

2. One Dalip Ram, son of Shri Uttam Ram filed the captioned Special Leave Petition seeking leave to challenge the judgment dated 18.10.2011 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition No.5865 of 1992. As per the same, the High Court rejected his challenge against the order dated 28.08.1991 passed by the Financial Commissioner in Appeal No.110 of 1998 carrying challenge against the order dated 19.01.1988 in case No.544/1987 of the second respondent in an application filed by the third respondent-Gram Panchayat under Section 7 of the Act. The second respondent as per order dated 19.01.1988 allowed the aforesaid application for eviction of the petitioner herein from the subject land specifically described in the application. In the application, the third respondent-Gram Panchayat stated that the petitioner herein/the respondent therein, is in unauthorised possession of the subject land belonging to the Gram

Panchayat which was leased out to his father, even after the expiry of the lease period. Further, it was stated that even thereafter, he had neither handed over its possession to the Gram Panchayat nor paid lease money therefor. As per the order dated 19.01.1988, the second respondent found that the Gram Panchayat is the owner of the subject land thereby, rejecting the contra claim over ownership by the petitioner and finding that the petitioner herein/respondent therein is in unauthorised possession of the subject land, ordered for his eviction. In the appeal filed by the petitioner herein, the Commissioner confirmed the order, rejecting the contentions of the petitioner that the land in question was Banjar Qadim and spending huge amounts he converted it to cultivable land and that the Panchayat has got no connection with the said land. The authorities concurrently found that in the Jamabandi for the year 1963-64, the subject land was recorded as Shamlat Deh and the petitioner's father was shown as its Chakotadar (lessee). Upon his death, the petitioner stepped into his shoes and continued its possession, even after the expiry of the lease period unauthorisedly. The Commissioner has also concurred with the findings that the petitioner had failed to hand over the possession of the land to the Gram Panchayat and also pay Chakota (rent). The petitioner challenged the aforesaid orders dated 19.01.1988 and 28.08.1991 unsuccessfully before the High Court in Civil Writ Petition No.5865 of 1992 and the same was originally dismissed by the High Court as per order dated 21.07.1993. Seeking leave to challenge the said order in Writ Petition No.5865 of 1992, the petitioner filed Special Leave Petition No.3261-3262 of 1999. Taking into account the submission of the petitioner, that after the dismissal of the Writ Petition, an amendment was brought into Section 2(g)(ii) as Section 2 (g)(ii-A) in the Act as per Punjab Act No.8 of 1995 and was given effect from 09.07.1985, it was prayed to set aside the order sought to be impugned and the Writ Petition may be directed to be considered afresh having regard to the amendment brought in to the said Section. Accepting the said prayer, this Court as per order dated 01.12.2004, set aside the said order of the High Court and the matter was remitted to the High Court for fresh disposal observing that whether the amendment would cover the case of the petitioner or not is a matter to be examined on the basis of the materials already placed on record and in the light of the contentions raised. The order against which leave is sought for to challenge the same in this proceeding, was passed by the High Court pursuant to such consideration on remand. Though on merits, the said Writ Petition was again dismissed by the High Court subsequent to the remand, as per order dated 18.10.2011, it is a fact that the question, whether the aforesaid amendment brought to the Act covers the case of the petitioner was not pointedly considered thereunder. The said situation cannot be appreciated. Though we are not happy with the said situation taking into account the fact that the Writ Petition is of the year 1992, we do not think it appropriate to remand the matter again at this distance of time. In that view of the matter, we are inclined to consider the question, whether the amendment in view of the factual position obtained in this case would apply to the case of the petitioner so as to statutorily protect the allotment/transfer in any other manner of the subject land, if any, by virtue of the said amendment.

3. As part of such consideration, we will first refer to the position of Section 2 (g) of the Act after the aforesaid amendment and it reads thus: -

> "2 (g) " Shamlat Deh includes :-

(1) Lands described in the revenue records as shamlat deh excluding abadi deh; (2) Shamlat tikkas;

But does not include land which

(ii) has been allotted on quasi-permanent basis to a displaced person;

(ii-a) was shamlat deh, but, has been allotted on quasi-permanent basis to a displaced person, or, has been otherwise transferred to any person by sale or by any other manner whatsoever after the commencement of this Act, but on or before the 9th day of July, 1985.

(emphasis added)

4. A perusal of the amended Section 2(g)(ii-a) of the Act would reveal that the inclusive definition of Shamlat deh in the Act is actually amended by inserting a non- inclusive clause. In terms of the same, Shamlat deh, if allotted, on quasi-permanent basis to a displaced person or has been otherwise transferred to any person by sale or by way of any other manner, whatsoever, after the commencement of that Act on or before 9th day of July, 1985, it would fall out of the inclusion of the definition of Shamlat deh under Section 2 (g) of the Act. In other words, such allottee/transferee by sale or by any other manner would get the protection statutorily available as relates such land(s).

5. We think it appropriate in the context of the contentions to look into the meaning of the words 'displaced person' and 'quasi'. In the Black's Law Dictionary, Tenth Edition, the meaning of the words 'displaced person' is given thus:-

> "Someone who remains within an internationally recognised state border after being forced to flee a home or place of habitual residence because of armed conflict, internal strife, the government's systematic violations of human rights, or a natural or man-made disaster."

6. It is to be noted that the protective benefits in terms of the amendment will be available if the allotment on quasi-permanent basis is to a displaced person. It is also not inappropriate in this context to search for the meaning of the word 'quasi' to understand the meaning of the expression 'quasi-permanent basis' used in the aforesaid amended provision. In the Black's Law Dictionary, Tenth Edition for the said word, the meaning is given thus:

> "quasi – [Latin "as if"] (15c) Seemingly but not actually; in some sense or degree;
>
> resembling; nearly.
>
> "Quasi. A Latin word frequently used in the civil law, and often prefixed to English words. It is not a definite word. It marks the resemblance, and supposes a little difference, between two objects, and in legal phraseology the term is used to indicate that one subject resembles another, but that there are also intrinsic and material

> differences between them. It negatives the idea of identity, but implies a strong superficial analogy, and points out that the conceptions are sufficiently similar for one to be classified as the equal of the other."

7. Evidently, the contention of the petitioner is that the subject land was allotted to his father by the Government as he was a landless person belonging to Harijan. Ground 'H' raised in the captioned Special Leave Petition would further reveal that the contention of the petitioner is that it was so transferred (conspicuously, 'not allotted' as claimed in Ground B) to his father. Thus, it is evident that the petitioner is stating clearly whether it was 'allotted' or 'transferred' to his father. At the same time, he was categoric in his statement that the land in question which became evacuee property was given to his father and hence, he is entitled to the benefit of the amendment brought with effect from 09.07.1985, as Section 2(g)(ii-a) of the Act.

8. Bearing in mind, the aforesaid facts and factors, we will examine the claim and contention of the petitioner in the light of the decision of the Constitution Bench of this Court in Amar Singh & Ors. v. Custodian, Evacuee Property & Ors.1, and the decision in Basant Ram v. Union of India2 and the decision of a Division Bench of the Punjab and Haryana High Court in Bakshish Singh and Ors. v. State of Punjab and Ors.3, which was rendered relying on those decisions of this Court referred supra.

9. The contention of the petitioner and the meaning of the word 'displaced person' would reveal that he is not claiming rather, he could not claim that his father was a displaced person and that it was allotted to his father in that status. His case is that his father was a landless Harijan, it was allotted / transferred by the Government to him in the year 1961. In this context, it is to be noted 1957 SCR 801; 1957 INSC 28 AIR 1962 SC 994 2011 SCC OnLine P&H 11928 that in the original judgment as also as per the impugned judgment which were passed in Writ Petition No.5865 of 1992, by the High Court, confirming the concurrent findings of the authorities that in the year 1961, the subject land was given to his father only on lease at the rate of 2 per acre for a period of 10 years. It was further found concurrently that even after the expiry of the lease period, the subject land was not handed over and Chakota (rent) was not being paid. In the Jamabandi for year 1963-64, it was found that the land was described as Shamlat deh and the petitioner's father was shown as lessee. The concurrent finding that the owner of the subject land was thus consistently confirmed by the High Court. A perusal of Annexure A-1, allotment letter dated 04.08.1961 (claimed to be the true copy) produced by the petitioner in this proceeding would reveal that it was given to the father of the petitioner on an annual Chakota (rent) at the rate of 2 per acre for a period of ten years. The definition of Section 105 of the Transfer of Property Act, 1882, would, therefore, make it nothing but a 'lease'. A scanning of the contentions of the petitioner would reveal that he got no case that the subject land was transferred to his father by sale. We also took note of his contention that it was an evacuee property. The petitioner got no case that it was allotted to his father on a quasi-permanent basis for being a displaced person or that it was transferred by sale to his father. The case of the petitioner is that the subject land came to his father's possession by allotment/transfer otherwise than by way of lease. As noticed hereinbefore, his eviction was ordered, finding that even after the expiry of lease period, he is continuing to be there, without even paying the rent and therefore has been in unauthorised possession of the subject land.

10. In view of the factual and legal position thus obtained, it is only apposite to refer to Bakshish Singh's case of the High Court of Punjab & Haryana, referred supra, rendered relying on the two decisions of this Court referred supra. It is to be noted that in Bakshish Singh's case, Bakshish Singh and others were given land situated in village Mithewal in Tehsil Samrala for a period of ten years in the year 1963, under the provisions of East Punjab and Utilisation of Land Act, 1949. The land in question involved in this case is also in the Tehsil Samrala. In the light of the contentions advanced to challenge the order of their eviction, ordered under Section 7 of the Punjab Village Common Lands (Regulations) Act, 1961, Bakhshish Singh and others relied on the proviso to Section 2(g)(ii-a) which has been inserted vide Punjab Act No.8 of 1995, whereby transfers of land prior to 09.07.1985 are protected. The High Court found that in terms of the said amended provision, what was protected is allotment of land which was Shamlat deh on quasi-permanent basis to a displaced person or has been otherwise transferred to any other person by sale or any other manner whatsoever, after the commencement of that Act, but on or before 09.07.1985. It was therefore found that the petitioners therein were lessees for a fixed term and that the subject lands were not allotted to them either permanently or on quasi- permanent basis. After observing that the expression 'quasi-permanent' basis came to be used following press communique dated February 7, 1948 announced by the Government of East Punjab and that the Supreme Court had considered the meaning with reference to the said communication in Amar Singh's case (supra) and brought out the distinction between the words 'lease' and 'allotment', extracted paragraph 10 of the said decision reads thus:-

> "10. Next, it may be noticed that neither the East Punjab Ordinance 4 of 1947 nor the East Punjab Act 14 of 1947 which replaced it refer to or define either the word 'lease' or 'allotment'. These two words were for the first time defined only by the amending East Punjab Ordinance 16 of 1948 and it was made clear therein that an allotment was different from a lease. From the historical background, it would appear likely that the word 'allotment' was used for the grant of property to displaced land-holders while 'lease' was intended to denote a temporary grant to other displaced persons. But even so the temporary character of the right involved in the word 'allotment' was specified by defining 'allotment' as meaning the grant by the Custodian of a temporary right of use and occupation of evacuee property to any person otherwise than by way of lease. This temporary character of the right was reiterated also in the East Punjab Ordinance 9 of 1949 and in the Central Ordinance 27 of 1949. It is only in Central Act 31 of 1950 that by Section 2(a) thereof the word 'temporary' in the definition of the word 'allotment' was dropped and 'allotment' in defined as meaning the grant by a person duly authorized of a right of use or occupation of an immovable evacuee property to any other person but does not include a grant by way of a lease. Thus, the legislation of 1950 for the first time contemplated that allotment may be otherwise than temporary. This Act as well as the previous Central Ordinance completely omitted the definition of the word 'lease'. These changes were apparently necessitated by the fact that, in between, Punjab Government notification dated 8th July, 1949, came into operation providing for what has become subsequently known as quasi- permanent allotment..."

11. In the light of the above extract from the decision therein it was held in Bakhshish Singh's case (supra) that lease is a temporary grant whereas allotment though is a temporary right of use and occupation of evacuee property to any person otherwise than by way of lease. The High Court has also taken note of the decision rendered by this Court in Basant Ram's case (supra), that allotment of quasi-permanent basis was explained therein to mean that it was to remain in force so long as the land was to remain vested in the Custodian of Evacuee Property. Ultimately it was held that the leasehold rights conferred upon the petitioners therein was neither transfer of rights in the land nor allotment on quasi permanent basis and, therefore, they could not claim protection under the amended provision of the Act. We find no reason to disagree with the said conclusion arrived at by the High Court relying on the aforesaid decisions of this Court. In the factual situation obtained in this case which is akin to the one obtained in Bakshish Singh's case (supra) despite the oscillating stand of the petitioner as to whether it was 'allotment' or 'transfer'.

12. It is to be noted that in Bakshish Singh's case (supra), the High Court went on to consider whether the case of the petitioners therein would fall under the protection given to transfer by sale or any other manner. Thereupon it was held therein thus: -

> "Still further, the protection is to a transfer by sale or by any other manner. The lease for a fixed term cannot be said to be a sale nor transfer of interest or rights in the property in any manner. The expression "in any other manner" has to be read ejusdem generis with the expression sale where the transfer is of the rights in the immovable property. Both the judgments referred to by learned counsel for the petitioner deals with the allotment of land by Gram Panchayat. But in present case, the lease hold rights for a fixed term were conferred by a Custodian, which is and cannot be an allotment on quasi permanent basis or transfer of rights in the immovable property.
>
> The petitioner as a lessee and after the expiry of the lease period, cannot claim protection of the possession in view of the judgment of the Full Bench in case of CWP No. 14902 of 1992 titled as Roshan @ Roshan Lal v. The Secretary, Govt. of Haryana 1998 (3) PLR 651. It has been held that after the expiry of lease period, the leasee is an unauthorized occupant."

13. We are in perfect agreement with the conclusions and the findings of the High Court in Bakshish Singh's case (supra), rendered in situations identical to the situations obtained in the case at hand.

14. The upshot of the discussion is that we do not find any reason to disagree with the findings of the High Court in the impugned judgment dated 18.10.2011 that after the expiry of the lease period, the petitioner herein who stepped into the shoes of his father as lessee has been continuing there as an unauthorised occupant. In the said circumstances, having found that the petitioner is not entitled to get the protection of the Amendment Act and that the period of lease had expired long back in 1971 and further that at any point of time before any forum, the petitioner had not challenged the recorded status of his father as lessee and further that he had only stepped into the shoes of his father, we find no reason to interfere with the direction to evict the petitioner from the subject land

in the application filed under Section 7 as he being an unauthorised occupant as held by the authorities, which was confirmed under the impugned judgment dated 18.10.2011.

15. Accordingly, SLP(c) No.8687 of 2012 stands dismissed.

16. Now, in view of the meanings given to the words 'allotment'; 'lease'; 'displaced person'; 'quasi-permanent' and 'transfer' used in the amended Section 2(g)(ii-a) of the Act as noticed above and taking into account the fact that in the remaining Special Leave Petitions there is no contention that the concerned subject lands belong to the category of 'displaced person' or that the nature of receipt of subject lands partake the character of 'transfer' of such lands by sale or transfer of the rights in an immovable property on quasi-permanent basis, we are of the considered view that in none of the other special leave petitions, the petitioner(s) concerned can claim the protective benefit based on the amendment brought into Section 2(g)(ii-a) of the Act, except by way of establishing that it was transfer of land which was Shamlat deh, other than by sale and on quasi-permanent basis, after the commencement of the Act, but on or before the 9th day of July, 1985. In that regard, we have already endorsed the view taken on transfer by any other manner than by sale, of the High Court of Punjab & Haryana, in Bakhshish Singh's case (supra). We will consider whether any other Special Leave Petitions' case covers instances of lease, but continuance is after the expiry of the lease, for long, unauthorisedly, as in the case of Dalip Ram's case.

SLP (C) Nos.34380 of 2012 and 34382 of 2012

17. In SLP (C) No.34380/2012, the petitioners' father, Mohinder Singh, approached the third respondent by filing a petition under Section 11 of the Act for declaration of title over the subject land. On perusing the revenue records and jamabandis of different years, the authorities clearly found that he was a lessee. Further, it was found that it was so given to him for 10 years and no ownership right was given to him. For that and such other reason mentioned therein it was dismissed as per order dated 02.02.2011. After his death, the petitioners challenged the order dated 02.02.2011 before the second-respondent. The second- respondent found from the records that the Gram Panchayat is shown as the owner of the subject land and the petitioners' father is shown as lessee and consequently, the appeal was dismissed as per order dated 28.12.2011. As per the impugned judgment, the High Court rejected the claim for protection qua the subject land in terms of the amended Section 2(g)(ii-a) of the Act for various reasons including the failure of the petitioners to establish the claim that the land in dispute was allotted or transferred in any other manner to their father than on quasi-permanent basis. The Court also upheld the finding that the land vested with the Gram Panchayat. Needless to say, that the petitioners who disputed the ownership of the Gram Panchayat cannot, now, claim adverse possession over a period of more than 12 years. In view of the factum of rejection of their application under Section 11 of the Act now, there can be no impediment for evicting the petitioners from the subject land in accordance with law, especially, as in the case of SLP(C) No.8687 of 2012, the lease period had expired long ago, if such steps were not already taken. Consequently, SLP(C) No.34380 of 2012 is dismissed.

18. In SLP(C) No.34382 of 2012, the factual situation is identical to SLP(C) No.34380 of 2012. In fact, the third respondent found that the petition under Section 11 of the Act was filed to avoid

eviction based on petition filed by the Gram Panchayat under Section 7 of the Act. The finding was that the petitioner is in illegal possession of the subject land. It was found that the petitioner could not produce any document to establish the claim of allotment or transfer on quasi-permanent basis and consequently, the finding of being in unauthorised possession was upheld. The petitioner cannot maintain a claim for protection under the amended Section 2(g)(ii-

a) in the absence of evidence to establish transfer on quasi-permanent basis by any other manner. Continuation of possession of subject land in any other pretext cannot be permitted anymore.

19. Consequently, SLP(C) No.34382 of 2012 is dismissed.

Special Leave Petition (C) Nos.33764 of 2012, 33831 of 2012, 33832 of 2012, 33998 of 2012, 34678 of 2012 and 33833 of 2012

20. The captioned Special Leave Petitions are filed challenging the common judgment dated 06.07.2012 passed by the High Court of Punjab and Haryana respectively in Civil Writ Petition Nos.11643/2012, 11639/2010, 11638/2010, 11851/2010, 11637/2010, 4477/2006, 12652/2010, 12653/2010 and 12654/2010. As noticed by the High Court, those Writ Petitions carried similar questions of law and fact for adjudication and naturally, similar questions in the Special Leave Petitions, as well. The impugned judgment itself would reveal that the question whether the lands in dispute are excluded from Shamlat deh as defined under Section 2(g)(i) of the Act was considered thereunder. At the same breath, we will have to say that non-consideration of the question of entitlement to protection under the amended Section 2(g)(ii-a) of the Act, obviously was on account of failure to raise necessary pleadings therefor, though the same was very much available to be raised by virtue of the fact that the amendment in question was effected in the year 1995 w.e.f. 09.07.1985. Normally, in such a situation, the petitioner could not be permitted to raise such a question. However, we are inclined to consider the said question in view of the fact that in the lead case also no such contention was originally taken by the petitioner therein and still, earlier this question was considered in this judgment in view of the circumstances mentioned therefor. It is in the said circumstances, that despite the failure of the appellant to take up such a contention, we have considered that aspect earlier in respect of all the above Special Leave Petitions as well. On such consideration, we have already arrived at the conclusion that as relates the subject lands involved in all the said Special Leave Petitions as also there is nothing on record to hold that such lands were allotted on quasi-permanent basis to displaced persons. Moreover, there is nothing to hold that in all these cases that transfer of rights in the immovable properties had occurred to bring such lands in such a position to make them fall within the meaning of ‘allotment’ or ‘transfer’ for the purposes of Section 2 (g) (ii-a) of the Act and as such to exclude it from the definition of Shamlat deh and to consider the eligibility for protection or to negate it.

21. In view of the aforementioned position thus obtained, the question is, whether based on the rest of the contentions raised in the said long-drawn-out litigations, an interference with the impugned judgment is invited on other grounds as noted earlier.

22. The core contention raised to assail the common judgment dated 06.07.2012 is that though the Divisional Deputy Director, Rural Development, functioning as the Collector was to frame the issues for adjudicating the application filed before him under Section 11 of the Act, the Collector had not framed issues. According to the petitioner, it is not a mere irregularity whereas it is an illegality which makes the order a nullity. Furthermore, it is contended that it had caused prejudice to them. It is also contended that even otherwise the order is a nullity as no finding was recorded as to whether the subject land is Shamlat deh or not.

23. A perusal of the impugned judgment would reveal that the High Court had in fact dealt with all such contentions. After taking note of the fact that they are all long-drawn-out litigations, the High Court held that non- framing of issues by itself would not vitiate a proceeding, if the parties were alive to the issues involved based on the pleadings and led evidence on such issues. The said view of the High Court cannot be said to be an incorrect exposition of law in the light of plethora of decisions on the subject. In the decision in K.S. Venkatesh v. N.G. Lakshminarayana & Ors.4, the High Court of Karnataka 2007 SCC OnLine Kar 160 held that where parties were aware of the case and led all evidence not only to support their contentions but also in refutation of those of the other side, it could not be held that non-framing of issue(s) had caused prejudice to any party or vitiated the proceedings. The High Court of Gauhati in the decision in Sudhangshu Bikash Dutta vs Ranesh Kumar Chakraborty and Ors.5, held the same view. A survey on the authorities on the said subject would reveal that many other High Courts have also shared the same view. We do not find any reason to disagree with the said exposition of law as, mentioned above, as in our view also, non-framing of issues by itself will not make a decision a nullity, if the parties to the lis understood and adduced evidence on the issues actually involved in the matter. When the petitioners themselves filed Section 11 petitions and attempted to establish the fact that the subject land(s) involved is not Shamlat deh and the Gram Panchayat concerned also produced evidence to evince that the position is vice-versa, how can it be held that they were at a loss to understand the issue and not adduced their best evidence in that regard. In fact, the High Court has rightly found that the said contention was raised by the petitioner without bona AIR 1997 GAU 15 fides and in fact, the orders concerned would disclose findings of the authorities that lands involved in those cases belong to the category of Shamlat deh based on the evidence adduced by the Gram Panchayats concerned. When that be the circumstance, the petitioner could have produced evidence either in the appeal or before the High Court to show that what was the evidence which they would have produced to establish their claim in a petition under Section 11 petition. It is in this regard that they are all long-drawn-out litigations and assume relevance especially because the indisputable fact is that it is notice(s) from the part of the authorities in respect of such properties that persuaded them to engage themselves into such litigations. Obviously, in the cases on hand, the High Court found, based on the pleadings and the evidence adduced on the issues involved, that the authorities have arrived at the findings that the nature of the subject lands involved is Shamlat deh.

24. It is a fact that the authorities have arrived at the conclusion that the subject lands vested with the Gram Panchayat based on the finding that the nature of the subject lands, going by the records, revealed their nature as Shamlat deh. The fact is that in all these cases based on such contentions and also the fact that the petitioners are in unauthorised occupation of such lands, the Panchayat had earlier filed petitions under Section 7 of the Act for evicting the petitioners. It is to be noted that

in some of the cases, it is to avoid the impact in case of disposal of such applications in favour of the Panchayats concerned that the petitioners have filed applications under Section 11 of the Act. In view of the fact that the different clauses under Section 2(g) of the Act have individual characteristics and independent of each other, each one would cover the nature of Shamlat deh, the High Court repelled the contentions, especially referring to the decision in C.W.P. No.2264 of 1986, titled as "Gram Panchayat Village Mulepur Tehsil Sirhand Distt. Patiala v. Sucha Singh (Deceased) through LRS and Others". Thus, a careful consideration of the orders impugned before the High Court as also the judgment of the High Court would reveal that they are all at ad idem on the question of the nature of the subject lands viz., as Shamlat deh. It is the consideration of all such aspects and analysing the factual positions revealed from the evidence on record that the High Court confirmed the orders of the authorities. In view of the aforesaid facts and the failure on the part of the petitioners to show the prejudice on account of the non-framing of the issues in the circumstances obtained in such cases and above all, in the absence of any perversity in the impugned judgment, we are not inclined to interfere with the impugned judgment, which would give a quietus to the long-drawn-out litigations of more than one or two decades. At any rate, the petitioners have failed to make out any case warranting interference by this Court. In that view of the matter, the impugned judgment dated 06.07.2012 is upheld and the Special Leave Petition (C) Nos.33764 of 2012, 33831 of 2012, 33832 of 2012, 33998 of 2012, 34678 of 2012 and 33833 of 2012 are dismissed.

Special Leave Petition (C) No. 1668 of 2019 Special Leave Petition (C) No. 34381 of 2012 Special Leave Petition (C) No. 38532 of 2012 Special Leave Petition (C) No. 22206-22209 of 2013 Special Leave Petition (C) No. 19680 of 2013 Special Leave Petition (C) No. 30491 of 2013 Special Leave Petition (C) No. 488 of 2014 Special Leave Petition (C) No. 486 of 2014 Special Leave Petition (C) No. 36797 of 2013 Special Leave Petition (C) No. 6181 of 2014 Special Leave Petition (C) No. 17304-17305 of 2014 Special Leave Petition (C) No. 15510 of 2015 Special Leave Petition (C) No. 17550-17552 of 2015 Special Leave Petition (C) No. 24350 of 2015 Special Leave Petition (C) No. 30271 of 2014

25. In all the captioned Special Leave Petitions, except Special Leave Petition Nos.15510 of 2015 and 17550- 17552 of 2015, the petitioners who approached the Collector with petitions under Section 11 of the Act, essentially for getting declaration of ownership over the subject lands suffered adverse orders, inasmuch as the said petitions were dismissed. Thereupon, they unsuccessfully took up the matters in appeals. Later, challenging the adverse orders of the authorities, they approached the High Court by filing Writ Petitions and the adverse orders thereon are being sought to be challenged through the captioned Special Leave Petitions. In the case of SLP Nos.15510 of 2015, the concerned Gram Panchayat filed a petition under Section 11 of the Act and upon its dismissal it took up the matter in appeal unsuccessfully. Those orders were challenged in Writ Petition No. CWP No.2141/1986 and after considering the rival contentions and perusing the documents, the High Court allowed Section 11 petition filed by the Gram Panchayat. In SLP Nos.17550-17552 of 2015, the petitioners herein moved application under Section 11 of the Act and the orders were challenged unsuccessfully in appeals. It is thereafter that Writ Petitions were filed challenging both the adverse orders passed by the authorities. The High Court allowed the Writ Petitions and Section 11 petitions filed by the parties concerned were dismissed. Since the prayer of the petitioner is for granting the

benefits flowing from the amended Section 2(g)(ii-a) of the Act has already been repelled by us, we will proceed to consider the surviving questions, that too, intrinsically connected to the questions involved in Dalip Ram's case (supra). In the said Special Leave Petitions, the question whether the subject lands are Shamlat deh was also raised. However, ultimately it is found that the subject lands are Shamlat deh and these vested with the Gram Panchayats concerned, in other words, in such matters it was found that the Gram Panchayat concerned is the owner of the property involved in those matters. In most of the matters in this category, apprehending adverse order and consequential steps for eviction and to avoid such unpleasant situation, the petitioners approached the Collector by filing of petition under Section 11 of the Act. The failure to establish their title over the property and consequential finding of ownership with the Panchayat concerned, steps were taken for their eviction. Besides their failure to establish the case that the land involved is not Shamlat deh, they failed to prove that it was allotted to them or transferred to them by sale or in any other manner with rights over the said property. In short, it is either suffering the concurrent finding resulting in dismissal of application under Section 11 of the Act and are faced with Section 7 proceedings for eviction that they moved this Court. In Special Leave Petition No.15510 of 2015, the petitioner has themselves stated that SLP (C) No.8687 of 2012 viz., Dalip Ram's case (supra) is pending before this Court. We have already considered the said Special Leave Petition and after rejecting the contentions dismissed the said Special Leave Petition. When that be the circumstances and in the absence of any other sustainable reason for upholding their right over the subject lands and consequent to the finding that the subject lands belong to the Gram Panchayat concerned, the Special Leave Petitions are also liable to the dismissed. Accordingly, they are dismissed.

Special Leave Petition (C) No. 13391 of 2018 and SLP (C) 26164 of 2018

26. The petitioners in SLP(C) No.13391 of 2018 seek to challenge the judgment dated 16.01.2018 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No.15343 of 2004 in this Special Leave Petition. The challenge in the said Writ Petition was against notices for auctioning the subject lands over which the petitioners claim ownership and possession, unsuccessfully.

27. The High Court as per the impugned judgment took note of the indisputable and undisputed fact that the proceedings under Section 11(2) of the Act initiated by the petitioners herein have been dismissed rejecting the claims over the subject lands. There is no case for the petitioners that thereafter they have successfully challenged the adverse orders passed against them in such proceedings. When they allowed such orders to become final or when they attained finality otherwise the notices issued and called in question unsuccessfully can only be taken as necessary sequel to the manner in which the proceedings initiated under Section 11(2) of the Act culminated.

28. In such circumstances, the challenge against issuance of notices was rightly negated by the High Court. It calls for no interference in view of our finding with respect to the protection available to properties under the amended provision of Section 2(g)(ii-a) of the Act.

29. Consequently, the captioned SLP(s) are dismissed.

Special Leave Petition (C) No. 205-208 of 2014

30. The Interlocutory Application filed in the above Special Leave Petition has been perused. The said IA No.212671 of 2023 is filed in the light of the order passed by this Court in Review Petition (C) No.526 of 2023 in Civil Appeal No.6990 of 2014, evidently the Review Petition was allowed. The Civil Appeal No.6990 of 2014 was restored into its original number and the final order dated 7th April, 2022 was recalled. Thereafter, the matter was again heard and the judgment is reserved. In such circumstances, the prayer in the IA is allowed as it appears that the issue involved in the captioned SLP is similar to the one in Civil Appeal No.6990 of 2014. Hence, this matter is de-tagged and is to be listed after six weeks.

Special Leave Petition (C)...CC No.6152 of 2015

31. On going through the order sought to be challenged, we find that this is not directly connected or allied to the main question which we have dealt with in Dalip Ram's case (supra). Hence, this matter is de- tagged and to be listed after six weeks.

32. The captioned petition is yet to be numbered as Special Leave Petition due to pendency of IA Nos. 98235, 98232, 98239, 98238, 98241 and 98237, of 2018. Since, no specific orders are passed in IA(s) and in place of deceased person(s) legal representatives are not actually substituted (if those applications are to be allowed), we have not gone through the same for purpose of disposal. Hence, de-tagged to be dealt with appropriately in accordance with rules.

Special Leave Petition (C) No. 24357 of 2015

33. The factual background of the cases that culminated in the common judgment dated 16.02.2015 reveals the repeated litigious attempts on the part of the petitioner and his predecessors and the Gram Panchayat qua the subject lands over which the petitioners herein claimed title, ownership and possessions.

34. The Civil Writ Petition No.5177 of 1995, the judgment of which is sought to be challenged, was filed by the Gram Panchayat Village Mulepur. The orders under challenge before the High Court in the Writ Petition were orders in which the primary authority as also the appellate authority, allowed the petition filed under Section 11 of the Act by the petitioner. As per the impugned judgment, the High Court allowed the Writ Petition and dismissed the petition filed under Section 11 of the Act by the petitioner herein holding that the land in question is Shamlat deh and vests with the Gram Panchayat free from encumbrances.

35. In paragraph 11 of the order sought to be impugned, the question arose for consideration was mentioned thus: -

> "11. The question which arises for consideration in the present case is whether entry of "Shamlat Deh" in the column of ownership, possession of co-sharers in column No.5, nature of land as Banjar Qadim in column No.8 and land not assessed to land revenue in column No.10 according to jamabandi for the year 1950-51, would vest in Gram Panchayat as Shamlat Deh or would be covered by the exclusion clause of

Section 2(g) of the 1961 Act?"

36. Despite our anxious scrutiny of the materials on record, we could not get at hand any material much less any specific contention as to how the petitioner/his predecessor, came into possession of the subject land, otherwise than on lease from the Gram Panchayat. Page E of the synopsis would reveal that the petitioner would admit the fact that on 22.05.1990, he took the subject land(s) involved in the case on hand on lease from the Writ Petitioner, Gram Panchayat. The lease deed dated 22.05.1990 is produced in this proceeding as Annexure P-1. Though, it is the case of the petitioner that on 22.05.1990, the subject land(s) was leased out to him. A perusal of the same would reveal that the name of the lessee is shown therein as Shri Surender Singh son of Salamdin, village Mulepur. The petitioner is Chiragdin, of course son of Surender Singh of village Mulepur. Whether Chiragdin and Surender Singh is one and the same person or whether he is the sibling of the lessee is not discernible from the materials on record. Be that as it may, the case of the petitioner is that at the time when the land(s) was leased out to him as per Annexure P-1, he was already in possession of the same. His case was that being one of the co-sharers and proprietor of village Mulepur, he was not bound to deliver back the possession of the land to the respondent- Gram Panchayat after expiry of the lease period as the land(s) never vested in the Gram Panchayat.

37. It is in the said circumstances that the question arose for consideration was mentioned in paragraph 11 of the judgment sought to be impugned as extracted hereinbefore. The petitioner who came into possession of the land(s) as aforesaid claimed ownership over the land in dispute by filing petition under Section 11 of the Act. In the contextual situation, it is relevant to refer to Section 11 of the Act.

"11. Decision of claims of right, title or interest in shamilat deh.- (1) Any person or [a Panchayat] claiming right, title or interest in any land, vested or deemed to have been vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit."

38. A perusal of the same would reveal that any person can maintain a petition under Section 11, claiming right, title or interest in any land, vested or deemed to have vested in a Panchayat. When that be so, the petitioner who claims a right in terms of order under Section 11 cannot be heard to contend that the land was never vested with the Panchayat, it could not have been deemed to have vested in a Panchayat, as he himself/the predecessors approached the authority under Section

11. In other words, the very filing of Section 11 of the Act, pre-supposes that the land in question in respect of which the applicant claims right, title or interest is a land vested or deemed to have been vested in a Panchayat. In short, the sine qua non for filing a petition under Section 11, claiming

right, title or interest is that the land in question, over which such right, title or interest is claimed should be one vested or deemed to have been vested in the Panchayat concerned.

39. In such circumstances, when the categoric case of the petitioner is that he approached the Collector through a petition under Section 11 itself would be sufficient to treat that the land in question was vested or deemed to have been vested with the respondent Panchayat. That apart, it is his own case that it was leased out to him on 22.05.1990 by the Panchayat. When that be the case of the petitioner, the petitioner cannot be heard to challenge the vesting or deemed vesting of the land(s) in question with the respondent-Panchayat.

40. In our considered view, the High Court was perfectly correct in holding that the unsuccessful attempt on the part of the respondent-Panchayat in the proceeding under Section 7 of the Act cannot be a reason for holding that they would or should act as res judicata to challenge an adverse order against them under Section 11 of the Act.

41. The High Court observed and held that the entries of Shamlat deh prior to consolidation, irrespective of any nomenclature would definitely vest the land in Gram Panchayat in terms of Section 2 (g)(1) and Section 4 of the Act, and therefore, the words 'Shamlat deh' simpliciter followed by any other entry would vest with the Gram Panchayat under the Act.

42. As we observed and found earlier in the case in hand, virtually, there is no necessity to go into such questions as the very precise case of the petitioner is that he got the land(s) in question on lease from the respondent-Panchayat. That apart, independent of that, the other case put-forth by the petitioner is that the title of the subject lands were declared in his favour in a proceeding under Section 11 of the Act. But then, there is nothing on record to show that the petitioner had challenged the entries in the jamabandies of the year concerned qua the land in question that it is Shamlat deh and that in relation to the same he/the predecessor was a lessee. That apart, the High Court after analysing the factual position and the relevant provisions observed and held that a person could not be in cultivating possession of the land which was recorded as Banjar Qadim in the year 1950-51. In this contextual situation, it is relevant to refer to paragraph 29 of the impugned judgment which read thus: -

> "29. The expression banjar qadim in the jamabandi for the year 1950-51 assumes significance in view of definition of the phrases like Banjar Qadim, Banajr Jadid and Gair Mumkin. The person could not be in cultivating possession of the land which was recorded as banjar Qadim in the year 1950-51. If the land has not been harvested for four successive crops and has not been sown, then such land is classified as Banjar Jadid or new fallow. If it continues to be uncultivated and the said entries are maintained for the next four harvests then such land comes under the category of banjar qadim or old fallow. The aforesaid terminology shows that a banjar qadim land is a land which remained uncultivated for 8 preceding harvests. Banjar Qadim land shown in column No.8 of the Jamabandi for the year 1950-51 negates the plea of self-cultivating possession of the respondents as on 26.01.1950."

43. It is based on the afore-extracted paragraph, the High Court went on the consider the other contentions with respect to the relevant provisions. The High Court on such consideration of the entire issues arrived at the conclusion that taking note of the nature of the land, as claimed by the petitioner, his claim for cultivation over the land could not be presumed for a period of 12 years immediately preceding the commencement of the 1961 Act. Taking into account all the aforesaid circumstances, we do not find any reason to find fault with the said conclusion. Even otherwise, the petitioner who got in possession of the subject land(s) based on a lease cannot be heard to contend that he ceases to be a lessee. In terms of Section 105 of the Transfer of Properties Act, 1882, the transaction in respect of the land in question, evident from Annexure P-1 could only be styled as lease. While considering the question of benefit flowing from the amendment, Section 2 (g) of the Act by inserting (ii-

a) to it, we have already found that the land in question should have been Shamlat deh and the person claiming the benefit should establish that it was allotted to him on permanent basis or transferred by way of sale or in any other manner or transferred in any other manner on permanent basis with rights over the same.

44. In Dalip Ram's case (supra), which was dismissed as per orders in this judgment, we have held that 'lease' and 'allotment' are different and a person who got possession of subject land by way of lease cannot be heard to challenge the title or ownership of the Panchayat concerned from whom it got the land on lease.

45. The discussion as above would reveal that there is no perversity in the judgment sought to be impugned warranting an interference in exercise of the power under Article 136 of the Constitution of India.

46. In the said circumstances, the Special Leave Petition stands dismissed.

....., J.

(C.T. Ravikumar) ....., J.

(Rajesh Bindal) New Delhi;

January 02, 2025.