

MEG RAJ (DEAD) THR. L.RS. & ORS.

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v.

MANPHOOL(DEAD) THR. L.RS. & ORS.

(Civil Appeal No.7426 of 2011)

MARCH 15, 2019

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**[ABHAY MANOHAR SAPRE AND
DINESH MAHESHWARI, JJ.]**

*Haryana Ceiling on Land Holdings Act, 1972 – s.26 – Bar of
Jurisdiction – Suit land was subjected to ceiling under the Act and
the prescribed authority had passed an order in relation to the suit
land – Two civil suits were filed by the two sets of persons claiming
interest in the suit land – High Court held that both civil suits were
barred and thus, were not triable by the civil court in the light of
express bar contained in s.26 of the Act – Held: s.26(b) of the Act
clearly bars filing of civil suit to examine the legality of the order
passed by the prescribed authority under the Act – In other words,
the civil court’s jurisdiction is expressly taken away by s.26(b) of
the Act from examining the legality of orders under the Act – Thus,
the High Court was justified in dismissing the appellants’ suits as
being barred by virtue of the bar contained in s.26 of the Act –
Code of Civil Procedure, 1908 – s.9.*

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Dismissing the appeals, the Court

**HELD: 1. The High Court was justified in holding that both
the civil suits were barred and thus were not triable by the Civil
Court in the light of express bar contained in Section 26 of the
Haryana Ceiling on Land Holdings Act, 1972. [Para 17] [4-E]**

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**2. Mere perusal of the plaint in both the civil suits would
go to show that the plaintiffs (appellants) had challenged therein
the legality of the order passed by the Prescribed Authority under
the Act and prayed that the order be declared null and void.
[Para 18] [5-A-B]**

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**3. Section 9 of the Civil Procedure Code, 1908 provides
that the Courts shall have jurisdiction to try all suits of civil nature
excepting suits of which their cognizance is either expressly or
impliedly barred. [Para 19] [5-B-C]**

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Dhulabhai v. State of M.P. AIR 1969 SC 78 :
[1968] 3 SCR 662 – referred to.

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4. The appellants are the legal representatives of the original A
plaintiffs and the respondents are the legal representatives of original
defendants in the Civil suit No.24-C/1979 & Civil Suit No.62-C/1979
out of which these appeals arise.

5. The dispute relates to 4/5th share in the land measuring 643 B
Bighas and 4 Biswas situated in village Umedpura, District Sirsa, State
of Haryana (hereinafter referred to as “the suit land”). The suit land
was subjected to ceiling proceedings under the Haryana Ceiling on Land
Holdings Act, 1972 (for short, “the Act”) wherein the Prescribed Authority
had passed an order dated 17.10.1978 in relation to the suit land.

6. This led to filing of two civil suits by two sets of persons claiming C
interest in the suit land. One civil suit was C.S. No. 24-C of 1979 and
other was C.S. No. 62-C of 1979.

7. So far as C.S. No. 24-C of 1979 is concerned, it was filed by
the plaintiffs in the Court of Sub-Judge III Class, Sirsa, against the D
defendants. In this suit, the plaintiffs sought a declaration that the order
dated 17.10.1978 passed by the Prescribed Authority under the Act is
null and void. The Trial Court, by judgment/decree dated 06.11.1981,
dismissed the suit as being barred.

8. The plaintiffs felt aggrieved and filed first appeal (C.A.421-C/ E
83) in the Court of Additional District Judge, Sirsa. By Judgment dated
17.09.1983, the First Appellate Court dismissed the appeal and upheld
the judgment/decree of the Trial Court.

9. The plaintiffs then carried the matter in appeal (R.S.A.No.40/ F
1984) against the judgment/decree of the First Appellate Court in the
High Court of Punjab &Haryana at Chandigarh.

10. So far as C.S. No. 62-C of 1979 is concerned, it was filed by
other set of plaintiffs. It was filed in the Court of Sub-Judge 1st Class, G
Sirsa against other set of defendants, though it was also in relation to the
same suit land, which was the subject of C.S. No.24-C of 1979. In this
suit also, the plaintiffs sought a declaration that the order dated 17.10.1978
passed by the Prescribed Authority under the Act is null and void but the
Trial Court, by judgment/decree dated 15.04.1985, decreed
the suit.

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A 11. The defendants felt aggrieved and filed first appeal (C.A.77-C/85) in the Court of Additional District Judge, Sirsa. By judgment dated 23.07.1987, the First Appellate Court dismissed the appeal. The defendants felt aggrieved and carried the matter in appeal (R.S.A. No.2712/1987) in the High Court of Punjab & Haryana at Chandigarh.

B 12. Both the second appeals were clubbed together for their disposal.

C 13. By a common impugned order dated 28.01.2008, the High Court dismissed R.S.A. No. 40/1984 which arose out of C.S. No.24-C/79 and allowed RSA No. 2712/1987 which arose out of C.S. No. 62-C/1979 giving rise to filing of these appeals by special leave by the plaintiffs of both the civil suits mentioned above in this Court.

14. So, the short question involved in the present appeals is whether the High Court was justified in dismissing R.S.A. No.40/1984 and allowing R.S.A. No. 2712/1987.

D 15. Heard learned counsel for the parties.

16. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

E 17. In our considered opinion, the High Court was justified in holding that both the civil suits were barred and thus were not triable by the Civil Court in the light of express bar contained in Section 26 of the Act. Section 26 of the Act reads as under:

“26. Bar of Jurisdiction – (1) No civil court shall have jurisdiction to-

F **(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the right of the State Government to the surplus area under this Act; or**

G **(b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Commissioner, the Collector or the Prescribed Authority.**

(2) No order of the Financial Commissioner, the Commissioner, the Collector or the prescribed authority

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made under or in pursuance of this Act shall be called in question in any court.” A

18. Mere perusal of the plaint in both the civil suits would go to show that the plaintiffs (appellants) had challenged therein the legality of the order dated 17.10.1978 passed by the Prescribed Authority under the Act and prayed that the order dated 17.10.2018 be declared null and void. B

19. Section 9 of the Civil Procedure Code, 1908 provides that the Courts shall have jurisdiction to try all suits of civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

20. Section 26 (b) of the Act clearly bars filing of civil suit to examine the legality of the order passed by the Prescribed Authority under the Act. In other words, the Civil Court’s jurisdiction is expressly taken away by Section 26(b) of the Act from examining the legality of orders passed under the Act. The remedy of the plaintiffs in such case lies in filing appeal/revision under Section 18 of the Act against the order of the Prescribed Authority. (See **Dhulabhai vs. State of M.P.**, AIR 1969 SC 78) C D

21. In view of the foregoing discussion, we are of the considered opinion that the High Court was justified in dismissing the appellants’ suits as being barred by virtue of the bar contained in Section 26 of the Act. We concur with the reasoning and the conclusion arrived at by the High Court finding no case to interfere in the impugned order in these appeals. E

22. The appeals are, therefore, devoid of any merit. They are accordingly dismissed. F