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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP-19103-2016 (O & M)
Reserved on:23.01.2025
Pronounced on: 13.02.2025

ISHWAR SINGH AND OTHERS. .....Petitioners

Versus

STATE OF HARYANA AND OTHERS .....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

Argued by: Mr. D.P.Singh, Advocate and
Mr. Shreenath A. Khemka, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana.
Ms. Sraleen Jaswan, Addl. A.G., Haryana.
Mr. P.P.Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana.
Mr. Gaurav Bansal, DAG, Haryana.
Mr. Karan Jindal, Asstt. A.G., Haryana.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Senior Panel Counsel for UOI.

Mr. Sudhir Aggarwal, Advocate and
Mr. Ishan Aggarwal, Advocate
for the State of Uttar Pradesh.

Mr. Vikram Singh, Advocate
for respondents No. 11, 16, 24 to 26 and 50.

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SURESHWAR THAKUR, J.

Averments made in the writ petition.

1. The petitioners on account of a registered sale deed are in possession of land measuring 300 Bighas comprised in Khasra

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Numbers 93, 94, 95/2, 96, 98, 99 etc. in village Manjhawali in the State of Haryana. The said land is situated on the banks of river Yamuna.

2. The land originally belonged to Pandit Gauri Shankar. After the change of course of Yamuna river, the land in question fell into the jurisdiction of Tehsil Secundrabad, District Bulandshahr, State of Uttar Pradesh. The said land was recorded for identity purposes as *Chak Manjhavali* in the revenue records of Uttar Pradesh by the Revenue Officers concerned, in the Khatauni for the year 1946.

3. Pandit Gauri Shankar executed lease of the land in favour of Shiv Charan, Bisheshar Das and Ram Gopal in the year 1948. The legislature of the State of Uttar Pradesh enacted the UP Zamindari Abolition and Land Reforms Act, 1950. In terms of the said enactment, the aforesaid lessees deposited ten times of the land revenue with the State of Uttar Pradesh in the year 1959 and accordingly became *Bhoomidars* of the land in question. The said *Bhoomidars* and their successors sold the said land in favour of the present petitioners and thereafter the land in question remained in physical possession of the petitioners.

4. Thereafter, on 03.09.1984, the State of Uttar Pradesh transferred the Revenue Records bearing the petitioner's ownership details to the State of Haryana, as per settlement under the Dixit Award, and on 27.03.1985, the Halqa Patwari, Village Manjhavali updated the revenue records. However, the same were cancelled on 28.10.1996 on the ground that the Halqa Patwari was not competent to update the

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records received from Uttar Pradesh, and, the same had to be done by the Collector.

5. In the meantime, Gargi Devi wife of Pandit Gauri Shankar, alongwith Chander Kala and Chand Saraswat, executed fraudulent sale deeds in favour of Ram Chand and Others in the year 1989, for the same land which already stood transferred to the petitioners in the years 1959-1987.

6. Further, the petitioners averred that had the State of Haryana updated its records of rights by incorporating the revenue records transferred from the State of Uttar Pradesh, such a fraudulent sale deed would never have been executed.

Sequence of events.

7. On 27.03.1985, Rapat No. 269 (Annexure P-1) was recorded under the instructions of the Deputy Commissioner, as regards the manner of preparing revenue record in pursuance to Dixit Award. It became categorically mentioned thereins, that any change in the Khasra Girdawari of the incoming areas rather shall not be made by Patwari but the requisite correction was directed to be made through a decision becoming recorded upon the application seeking correction thereof.

8. Thereafter, on 28.03.1985, the Halqa Patwari entered Rapat No. 270 stating that the petitioners and other landowners continue to be in possession of the land in question.

9. On finding that Rapat No.270 has been wrongly recorded as the Patwari was not authorized to record the same, the Commissioner

concerned, issued instructions on 28.04.1995 rather for the cancellation of Rapat No.270. Further, vide memo dated 15.09.1995, the Deputy Commissioner Faridabad, directed that the proceedings be carried out by issuing notice to both the parties.

10. On 17.10.1996, the Revenue Circle Officer Village Manjhawali issued notice to the parties as to why the Rapat no. 270 dated 28.03.1985 be not cancelled.

11. Vide order dated 28.10.1996 (Annexure P-2), the Revenue Circle Officer, Ballabgarh of village Manjhawali, declared the Rapat No.270 dated 28.03.1995, as illegal having been entered in violation of the rule as the Girdawar/Patwari Halqa, thus was not competent to change the Girdawari, in view of the directions passed by the District Collector, that such change could only be carried by the Revenue Circle Officer.

12. The said order was challenged in appeal before the Collector Faridabad, by the petitioners and vide order dated 23.06.1997, and the matter was remanded to the Revenue officer, thus for carefully studying the revenue records prepared in compliance with the Dixit award. Further, it was stated that to know the truth, the records of village Chak Manjhawali and village Manjhawali should be examined and co-related with the prevailing position on the spot. It was further noticed that there appears to be doubt in the records of Chak Manjhawali, inasmuch as, the area of Village Manjhawali has been shown unauthorizedly and also the records and map, as have been

prepared rather should be tallied with the record of settlement and with the *Misal Hakiyat.*

13. The order passed in appeal was challenged by the petitioners by filing revision before the Commissioner, Gurugram. The Commissioner concerned vide order dated 04.06.1998 remanded the case to the Assistant Commissioner II Grade with a direction to conduct a detailed enquiry and decide the case afresh after hearing both the parties.

14. The Assistant Collector II Grade, Ballabgarh vide order dated 20.1.1999 held that he could not go to the spot for the comparative study of the Revenue Record and for recording the evidence of both the parties, on account of disturbed peace on the spot and therefore he went secretly with the village *lamberdar* and came to the conclusion that the respondents were cultivating the disputed land and thus cancelled Rapat No.270.

15. The said order was challenged before the Commissioner and the learned Commissioner vide order dated 03.06.1999, came to the conclusion that under Section 16 of the land revenue Act and the Section 13 of the said Act, the petitioners can file an appeal before the Collector.

16. The order dated 03.06.1999 was challenged before the Financial Commissioner of Haryana by filing ROR No.348/98-99. The Financial Commissioner set aside the order dated 03.06.1999, and, directed the AC II Grade to decide the matter afresh after considering

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the remand order dated 04.06.1998, thus passed by the learned Commissioner.

17. Thereafter, the matter was decided afresh by the Assistant Collector II grade concerned, vide order dated 29.11.2002 (Annexure P-6). The operative part of the said order is extracted hereinafter.

"Therefore, after hearing the arguments of both the parties, and extensive study of the file, I have reached the conclusion that keeping in view the possession on the spot and the record, the revenue record of Haryana is being kept intact and Rapat No. 270 is set aside and the Girdawari of these numbers is made self-cultivation owners. Finding no force in the application and demand of the applicants, the same is rejected.

18. The order dated 29.11.2002 was challenged by the petitioners before Collector, Ballabgarh by filing an appeal which was also dismissed vide order dated 28.03.2008 (Annexure P-7). The operative part of the said order is extracted hereinafter:-

> *" I have studied the decision of the lower court minutely. The decision is detailed, speaking, and as per the spot situation. The appellants have filed this case for correction of Girdawari whereas there is no land in their name in the revenue record, and on the spot, cultivating possession is also not there, then in that situation, no question of correction of Girdawari arises. The appellants only want to take benefit Rapat No. 270. Whereas Rapat No. 270 had been wrongly and illegally entered which has been set aside as per the decision of Commissioner, Gurgaon Division, Gurgaon. The appellants have no legal ground. If under Dixit Award, they assume their right, then they should file case in Civil Court* ***because in this case, question of title arises and only Civil Court can decide that question****. Rapat No. 269 is only for maintenance of*

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> record. ***If the appellants want to acquire any right regarding their ownership, then they should get the same decided from Civil Court. Only then, the revenue authority would be able to implement the decree of Civil Court in revenue record...***"

INFERENCES FROM THE AFORE ORDER MADE BY THE COLLECTOR, BALLABGARH.

19. Rapat No. 270 dated 28.03.1985, only related to the validity of the apposite corrections being made in the Khasra Girdawaris. The Khasra Girdawaris normally depict only the physical possession at the disputed sites, but yet any such depictions in the khasra Girdawari, thus, do not oust the titles of the land owners concerned, who otherwise acquire titles through any registered deed of conveyance, as has *prima facie*, happened in the instant case.

20. Moreover, when there are specific averments made in the instant case, that the petitioners assumed title over the disputed lands through execution in their favour of a registered deed of conveyance by their vendor(s). Moreover, when subsequently the said assumption of title over the disputed lands by the present petitioners was usurped through subsequently the successors in interest of the widow of one Pandit Gauri Shankar but passing an ill-legitimate title vis-a-vis the disputed lands, upon the respondents concerned. Therefore, when the said fact is somehow spoken in the order dated 28.03.2008 (Annexure P-7). Furthermore, since it is also becomes detailed thereins that a

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disputed question of title has arisen amongst the present petitioners and the respondents, as appertaining to the present disputed lands, whereupons, he declared that the said disputed question of title is to be decided by a Civil Court. Resultantly therebys too, the rescinding of rapat No. 270 dated 28.03.1995, thus appertaining to the makings of spot inspections, whereafters, Khasra Girdawari(s) became prepared, wherebys, become entered thus the cultivating possession of the present respondents over the subject lands. Since over the disputed lands, rather the present petitioners had acquired a prior right, title and interest but since subsequent thereto, the same has been usurped through the alleged executions of fraudulent sale deeds vis-a-vis the present respondents.

21. Prima facie, the said has happened despite the present petitioners acquiring lawful title from their vendors, upon whom became conferred the proprietary rights, in terms of the U.P. Zamindari Abolition and Land Reforms Act, 1950, as the prior owner one Pandit Gauri Shankar, thus, was holding the subject lands in excess of the permissible land holdings, rather under the statute (supra). As such, since the order (supra) is made by the Collector Ballabgarh. Moreover, when the said order merges thereinto thus the previously passed orders. In addition, when the said order besides the subsequently passed orders remained un-challenged at the instance of the State of Haryana, therebys, all the

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facts spoken therein wherefrom the supra inferences have been drawn, do acquire effective binding and conclusive effect. Resultantly, the further consequences thereof would be alluded to hereafter.

22. Feeling aggrieved from the order (supra), as made by the Collector Ballabgarh, the petitioners then filed a Revision Petition against the order dated 28.03.2008, and, the said revision was dismissed by the Ld. Commissioner, Gurgaon vide order dated 04.03.2011 (Annexure P-8).

23. Thereafter, the petitioners challenged the order dated 04.03.2011 before the Financial Commissioner, Haryana by filing ROR. The same was also dismissed vide order dated 14.09.2015 by upholding the orders passed by the learned Courts below.

24. Feeling dis-satisfied from the orders (supra), the present petition was filed thus laying a challenge to the order dated 29.11.2002 passed by the Assistant Collector II Grade **(Annexure P-6)**, order dated 28.03.2008 passed by the Collector, Ballabgarh **(Annexure P-7)**, order dated 04.03.2011 passed by the Commissioner, Gurgaon **(Annexure P-8)** and to the order dated 14.09.2015 passed by the Financial Commissioner, Haryana **(Annexure P-9).**

25. In addition to the aforesaid, the petitioners had also sought the passing of a mandamus, thus for the preparation of a *Shajra plan* after proper measurement, preparation of record of rights, notifying the final record of rights after deciding the claims and objections, as

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provided under the Punjab Land Revenue Act, 1887 and thereafters the carryings out of the consolidation proceedings, as provided under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

26. When matter came up for preliminary hearing on 15.09.2016, thus then an order became recorded, order whereof stands extracted hereinafter, a reading whereof discloses, that the then counsel for the petitioners, had abandoned his prayer thus relating to the relief at serial No. 1 (supra).

> *"Learned counsel for the petitioners states that he gives up the first prayer made in the petition i.e. challenge to the order dated 29.11.2002 (Annexure P-6), order dated 28.03.2008 (Annexure P-7), order dated 04.03.2011 (Annexure P-8) and order dated 14.09.2015 (Annexure P-9), and confines his prayer to the second aspect that mandamus be issued to the respondents to perform their statutory duties of measurement of land in accordance with the rules and regulations.*
>
> *Notice of motion to this limited extent for 14.12.2016."*

27. The instant writ petition became decided by this Court vide order dated 10.02.2020. The operative part of the said verdict becomes extracted hereinafter.

> *In the present case this is not the situation because the petitioners are claiming their rights on the land in question on the basis of registered sale deeds dated 02.5.1975 and are stated to be in possession of the specific khasra numbers. Their grievance is that the private respondents are trying to interfere in their possession. If that is the situation, there is no question of issuance of a mandamus as claimed by the petitioners for the purpose of*

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measurement of the land because the exact area of land is already known to the petitioners as claimed by them and in case their possession is invaded or tried to be invaded by the private respondents or anybody else, the petitioners have the remedy in the civil law by filing a civil suit for injunction to protect their possession being disturbed by any intruder. In so far as the title is concerned, if it is challenged by the private respondents or anybody else, the petitioners still have the right to establish their title by filing a suit for declaration in the civil Court in accordance with law.

Thus, in view of the aforesaid circumstances, the second prayer for which the notice was issued by this Court does not survive and therefore we do not find any merit in the present case for the purpose of granting the second prayer as well.

The petition is therefore dismissed.

28. The judgment dated 10.02.2020 was assailed by the petitioners before the Hon'ble Supreme Court of India by filing SLP (C) No. 244 of 2022 which was converted into Civil Appeal No. 3180 of 2023. The said Civil Appeal became decided through an order made thereons on 28.04.2023, and, the matter was remanded to the High Court for afresh adjudication.

29. In paragraph No. 3 of the verdict (Supra), the controversy became condensed in the hereinafter extracted manner.

"3. To state it very briefly, the controversy pertains to the identification and demarcation of the revenue estates of village Manjhawali and village Chak Manjhawali. While village Manjhawali falls in district Faridabad, State of Haryana, it is stated that Chak Manjhawali overlaps and

partly falls in the State of Uttar Pradesh. The related question that arises for consideration is whether the Dixit Award has been given effect in respect of the revenue estate of village Manjhawali."

30. Furthermore, it is also disclosed in the said order, that the State of Haryana and the State of Uttar Pradesh, filed counter affidavits whereby they took contrary and opposing stands. The operative part of the order dated 28.04.2023 is extracted hereinafter.

"*…5. Having heard learned counsel appearing on behalf of the appellants, learned Additional Solicitor General appearing on behalf of the respondent – State of Haryana, and learned counsel appearing on behalf of the State of Uttar Pradesh as well as learned counsel appearing on behalf of the private respondents,* ***it appears to us that all the contentious issues raised before us were not the subject matter of consideration before the High Court at the time when the impugned order dated 10.02.2020 was passed****.*
6. It is apparent from the record that no assistance was provided to the High Court by the States of Haryana and Uttar Pradesh in terms of their official stand now taken before this Court. ***We, thus, deem it appropriate that all the issues be first examined by the High Court.***
7. For the reasons aforestated, the appeal is allowed; ***the impugned order dated 10.02.2020 is set aside; and the matter is remitted to the High Court for fresh adjudication of CWP No.19103 of 2016***…"

31. When the matter came up for hearing before this Court on 14.12.2023, a detailed order was passed after noticing the entire facts, and directions were issued to the Surveyor General of India to conduct detailed survey after making assessments of the record etc. The relevant part of the order (supra) is extracted hereinafter.

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43. The Surveyor General of India is also directed to ensure, that through his responsible officials, he shall make a preliminary assessment, of the revenue records maintained respectively by the revenue authorities within the State of Uttar Pradesh and the revenue authorities in the State of Haryana, thus for ensuring that therebys some light is thrown in respect of

i) Whether the revenue estate Chak Manjhawali exist in the State of Uttar Pradesh and the said revenue estate thus adjoins village Manjhawali in the State of Haryana.

ii) Whether as stated today before this Court by the learned Additional Advocate General, Haryana, that while river Yamuna traversed the territories of Haryana and of Uttar Pradesh, especially while its traversing the territories encompassing the disputed lands, thus no alluvion deposits were made along the relevant banks.

iii) Whether any alluvion deposits were made alongside the banks whereons, the disputed lands exist and which are stated by the learned counsel for the petitioners, to now become transferred, from revenue authorities of revenue estate of Chak Manjhawali in Uttar Pradesh to revenue authorities in the revenue estate of village Manjhawali, in Haryana.

iv) The Surveyor General of India is also directed to through his responsible officials, ensure whether there is any demarcation(s) or measurement(s) made of the disputed lands now in Haryana and which purportedly adjoin the State of Uttar Pradesh, and, that whether the result of the said earlier carried any measurement(s) or demarcation(s), as stated by the counsel, for the State of Uttar Pradesh, before the Hon'ble Apex Court, was that, the authorities in the State of Uttar Pradesh, drawing a valid conclusion, that as a result of river action, alluvion deposits occurred alongwith the banks of river Yamuna, and the said alluvion deposits were made on territories, which

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now fall within the State of Haryana, and, whereons the disputed lands exist.

v) The Surveyor General of India is also directed to through his officials discern the truthfulness or otherwise of the stand adopted by the State of Uttar Pradesh, thus before the Hon'ble Apex Court.

vi) Whether as stated by the counsel for the petitioners, that the acquisition(s) of right, title and interest by them qua the disputed lands were made as a result of the beneficent provisions incorporated in the Uttar Pradesh Abolition of the Zamindari Act, 1958.

vii) Whether the village Chak Manjhawali in Uttar Pradesh or whether revenue estate Atta in Uttar Pradesh, thus adjoins village Manjhawali in Haryana.

32. Pursuant to the aforesaid direction(s), the Surveyor General of India conducted survey and submitted his report dated 24.04.2024, which was taken on record on 01.05.2024.

Submissions by the learned counsel for the petitioners.

33. Since there is a serious dispute between the States of Harvana and Uttar Pradesh regarding the transfer of territory of Chak Manjhawali, to village Manjhawali in Haryana, and, also with the report of the Surveyor General of India Report remaining inconclusive, thereupon, the only way to conclusively determine the aspect of transfer of territory under the 1979 Act, would be to direct the State of Haryana to prepare afresh the Record of Rights u/s 32 of the Punjab Land Revenue Act 1887.

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34. Even the passing of a verdict in case **CWP 8979 of 2009** titled as **Charan Singh Vs. State of Haryana**, was in a situation, where the landowners from Uttar Pradesh were aggrieved by the fact that their lands had been wrongly/parallelly recorded in the Revenue Records by the State of Haryana, therebys, their respective titles came into conflict. In such circumstances, this Court had directed that for all border territories, the State of Haryana ought to prepare afresh the Record of Rights after inviting objections and taking into consideration the claims of the farmers from Uttar Pradesh. The present controversy in analogous both in its factual scope and in its prayer Clause (b), thus with the controversy detailed in **Charan Singh's case (supra),** therebys, similar orders be passed. The relevant paragraphs as occur in the verdict (supra) are extracted hereinafter.

> *6. It may be seen that the Notification(s) contemplate the mandatory procedure to be followed, namely (i) measurement of the land in accordance with the rules and regulations; (ii) preparation of Shajra Plan after proper measurement; (iii) preparation of Record of Rights to be made available to the public ; (iv) to invite claims and objections against such proposed Record of Rights and (v) thereafter to notify the final Record of Rights after deciding the claims/objections.*
>
> *7. The proposed procedure obviously provides an opportunity of being heard and to participate in the process of measurements to the petitioners or other aggrieved parties as well.*

Submissions made by the learned Addl. Advocate General, Haryana.

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35. The Report of the Committee of Surveyor General of India submitted on 01.05.2024, makes it abundantly clear that no revenue estate Chak Manjhawali rather existed in the State of Uttar Pradesh since 1935-36 till date. It has been further observed that since 1935-36 till now, the Interstate Boundary of the concerned area has not changed and it is already fixed as Eastern boundary of Village Manjhawali of Haryana which adjoins village Atta Gujran of U.P. Therefore, he submits that therebys, it implies that the land in dispute was already part of Village Manjhawali in Haryana. It further belies the stand of State of U.P., as also of the petitioners, that there never existed Chak Manjhawali, whereas, the stand of State of Haryana stands proved, that there was no Chak Manjhawali in Uttar Pradesh rather village Manjhawali in Haryana was adjacent to Village Atta Gujran in Uttar Pradesh. Thus, once no revenue estate Chak Manjhawali ever existed, thereupon, eventually any claim as set up by the petitioners, based on such a fictitious revenue estate, but cannot be considered and also since no land ever came onto the territory of the State of Haryana, in addition to what already existed thereins, thereupon, there cannot be any issuance of a mandamus for the preparation of the record of rights.

36. The verdict in case of **Charan Singh and Others Vs. State of Haryana and Others** cannot be made applicable in the case at hand, because the preparation of record of rights could be possible only if there is land available thus corresponding to the land records, if any, which become transferred from Uttar Pradesh to Haryana.

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37. As per Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (hereinafter for short called as the Act of 1979) and Strip Map Sheet No. 13 of Haryana Uttar Pradesh Boundary (Surveyed 1974-75) for this region, the apposite State boundary of Haryana and Uttar Pradesh, is considered as the eastern boundary of village Manjhawali and theretos becomes adjunct thus the south western boundary of Atta Gujran (Uttar Pradesh) and the western boundary of Aurangpur (Uttar Pradesh). Once the Act so provides, thereupons, the existence of Chak Manjhawali as a revenue estate on the face of it is an arrant lie.

38. Further, he submits that it was Rapat bearing No. 270 dated 28.03.1985 which was the link between the petitioners and their relation with the subject land. However, since the said Rapat was set aside and was also declared illegal vide the orders impugned in the instant petition. Moreover, when the challenge qua the same has been given up by the petitioners, therefore, there is no connection displaying as to how the petitioners are connected with the land in question.

Inferences of this Court.

39. Even though, the learned counsel for the petitioners has abandoned his prayer relating to the relief appertaining to his seeking the quashing of orders, wherebys, rapat bearing No. 270 dated 28.03.1985 thus became annulled. However, the said abandonment of challenge relating to the ill rescinding of the rapat No.270 dated 28.03.1985, but *prima facie*, does not at all countervail the rights, if

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any, of the present petitioners over the disputed lands, as in the hereinabove extracted operative part of the order made by the Collector, Ballabgarh on 28.03.2008 (Annexure P-7), it is also manifested therein, that since a disputed question of title has emerged amongst the litigants in respect of the disputed lands. Resultantly therebys when the said order passed by the competent authority, rather remains unchallenged at the instance of State of Haryana, therebys the conclusions therefroms are:

a) The learned Addl. A.G., Haryana becoming *prima facie*, estopped to contend that merely on abandonment of the said prayer, therebys, the petitioners have no right, title and interest over the disputed lands especially under the Dixit Award.

b) If the Dixit Award embodies the regulatory regimen for settling the inter State boundary disputes, as arise from occurrences of alluvion and diluvion deposits, thus, sparked by the changes in the course of river Yamuna, therebys, the said dispute is required to be settled initially through measurement(s) being carried out, as were ordered to be done through orders recorded by this Court on 20.07.2023 and on 20.02.2024, upon, CWP-19103-2016 and CWP-24641-2017 and connected cases, wherebys, directions were given to erect boundary pillars, so as to demarcate the exact regions, thus within river Yamuna, which respectively fall onto the territory of Uttar Pradesh and onto(s) the adjoining thereto territories of the State of Haryana. Moreover, the purpose of the said directions was to ensure that the lands existing on the banks of river Yamuna, do also become aptly measured and demarcated, so that there is no confusion in the mind of the land owners as to whether the records, are to be maintained by the revenue establishments, within the State of Haryana or by the revenue establishments within the State of Uttar Pradesh.

40. **Imperatively also, the clear purpose of the said passed direction was to ensure but after making an intensive research spreading over at least several decades, thus appertaining to the changes in the courses of Yamuna river, qua therebys, rather decipherment(s) do emerge, as to, in which of the relevant spells, there were changes in the courses of river Yamuna, but leading to alluvion and diluvion deposits being made besides such alluvion deposits migrating respectively from the revenue estates within the State of Uttar Pradesh to the revenue estates within the State of Haryana and vice versa. The supra necessity arose because the majority of the litigants are riparian owners wherebys their riparian lands are ever subject to river actions, thus necessitating the passing of the supra directions.**

41. The expanse of the supra requirements, do somehow subsume, thereins the Haryana Act of 1979, wherebys, thus in the year 1979 there are displayings that the south western boundary of Atta Gujran (Uttar Pradesh) and the western boundary of Aurangpur (Uttar Pradesh) adjunct to the eastern boundary of

village Manjhawali and there is no Chak Manjhawali in Uttar Pradesh.

42. Reiteratedly and predominantly, for the reason that the said Act became enacted in the year 1979, whereas, the title over the present lands became assumed much prior thereto in the year 1959 nor when since the acquisition of title by the present petitioners in the year 1959, thus till the making of the said legislation, there has been any in depth survey relating to the changes in the courses of river Yamuna and consequent thereto alluvion deposits, but being made alongside the banks of river Yamuna, and, such alluvion deposits travelling from any revenue estate in Uttar Pradesh to village Manjhawali in Haryana.

43. The learned State counsel has vigorously argued by relying upon the report dated 24.04.2024 of the Surveyor General of India, as became tendered on an affidavit and became taken on record, on 01.05.2024. In the said report, the hereinafter extracted echoings occur.

> ***1. On scrutiny of revenue Record (Sajra) of Village Manjhawali (Annexure 1) prepared by Haryana Government in the year 1953- 54, and Revenue Map of village Chak Manjhawali (Annexure-3), it is observed that alignment of Revenue Map of village Chak Manjhawali (Annexure-3) matches with edges of eastern***

part of revenue map of village Manjhawali. (Annexure-1)

2. Revenue Maps of Village Chak Manjhawali (Annexure-6 & 7) as provided by Government of Uttar Pradesh is in urdu language of Fasli year 1294 and 1324 respectively. ***After scrutiny of both the maps it is observed that alignment of Revenue Map of village Chak Manjhawali (Annexure-6 & 7) matches with edges of eastern part of revenue map of village Manjhawali. (Annexure-1)***

3. It is evident from the Haryana and Uttar Pradesh (Alteration of Boundaries) Act 1979 (Annexure-19) and Strip Map sheet No. 13 of Haryana Uttar Pradesh Boundary (Surveyed 1974-75) (Annexure 18) that for this region, ***the state boundary of Haryana and Uttar Pradesh is considered as eastern boundary of village Manjhawali and south western boundary of Atta Gujran (Uttar Pradesh) and western boundary of Aurangpur (Uttar Pradesh).***

4. As per the Haryana and Uttar Pradesh (Alteration of Boundaries), Act 1979 (Annexure-19) and Survey of India History sheet of Haryana-Uttar Pradesh state boundary demarcation (Southern Sector) season 1974-75 & 1976-77 (Annexure-20), it is evident that state boundary as mentioned in para (3) above is taken from the settlement survey of Gurgaon district completed in 1943.

5. It is also evident from the Survey of India Toposheet No. 53H/11 3rd Edn. 1943 (Surveyed 1910-11, 1925-26, 1931-32 and 1935-36) [Annexure-9] that state boundary as mentioned in para (3) (4) above is considered as eastern boundary of village Manjhawali (Haryana) and south western boundary of Atta Gujran (Uttar Pradesh) and western boundary of Aurangpur (Uttar Pradesh).

6. Document pertaining to transfer of records from Government of Uttar Pradesh to Government of Haryana was provided and this handing over and Taking over was taken place on 03.09.1984 (Annexure-2). However no record was provided by the concerned revenue authorities of both states i.e. Haryana and Uttar Pradesh, whether at any point of time the disputed area was transferred from Haryana to Uttar Pradesh.

44. However, despite the supra echoings becoming borne in the report dated 24.04.2024 of the Surveyor General of India but yet the learned Addl. Advocate General, Haryana, has vigorously argued in terms of the speakings which occur in paragraphs No. 3 and 5 of the report (supra), to submit that no village Chak Manjhawali bordering village Manjhawali in Haryana, thus exists in Uttar Pradesh, rather he submits, that the south western boundary of village Attan Gujran and western boundary of Aurangpur, both whereof are in Uttar Pradesh, rather adjoin the boundary of village Manjhawali in Haryana.

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45. Though therebys the learned State counsel argues, that there could not be any valid acquisition of title by the present petitioners, as is averred to accrue vis-a-vis the disputed lands, thus, in the year 1957-1987, rather from their predecessor(s) in interest. Moreover, though he argues that since there is no notification detailing that there was ever Chak Manjhawali in Uttar Pradesh, therebys, there could never have happened any sale transaction from the previous vendors to the present petitioners.

46. He further argued that since the sizes of land occurring in village Manjhawali never underwent any change, therebys, no event of alluvion or diluvion deposits, thus, could happen on account of changes in the course of river in Yamuna, especially, on to the territories of village Manjhawali which occurs in the State of Haryana.

47. Be that as it may, it is but obvious that a serious dispute has emerged between the States of Uttar Pradesh and Haryana with respect to their existing or not existing any Chak Manjhawali, in Uttar Pradesh and the said chak abutting village Manjhawali in Haryana. Though the State of Uttar Pradesh validates the acquisition of title by the present petitioner(s) over the lands, which earlier on account of changes in the course of river Yamuna were existing in Chak Manjhawali in Uttar Pradesh, but on account of re-change in the course of river, wherebys, upon occurrences of alluvion and diluvion deposits, on the banks of river Yamuna, therebys, such alluvion and diluvion deposits became

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settled onto the territories which now fall in village Manjhawali in Haryana.

48. In the said regard, the order passed on 28.03.2008 (Annexure P-7) by the Collector Ballabgarh assumes significance, as thereupons, a firm inference can be recorded, that the disputed lands did fall onto the territory of village Manjhawali in Haryana, as unless they fell there ontos, therebys, there would be no occasion for the quashing of the questioned Rapat No. 270 dated 28.03.1995, nor an order would have been recorded that since a disputed question of title has emerged amongst the rival contestants, therebys, the said disputed question of title is to be settled by the Civil Court. Resultantly therebys the submission (supra) addressed before this Court by the learned Addl. Advocate General Haryana that there was no transfer of land from Uttar Pradesh onto the territories of the State of Haryana, becomes completely enfeebled and is rejected as such, irrespective of the fact that there may or may not be any Chak Manjhawali in Uttar Pradesh, thus adjoining village Manjhawali in Haryana.

49. It is for settling the said dispute that this Court had passed directions upon the Surveyor General of India, which had resulted in the submission of report dated 24.04.2024 and with thereins occurring the hereinabove extracted speakings.

50. As stated (supra), though speakings occur at serial No. 1 and 2 of the said report, which do suggest that there is Chak Manjhawali in Uttar Pradesh and the said chak adjoining the eastern

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part of revenue map of village Manjhawali, but yet subsequently some confusion has arisen about whether Chak Manjhawali in Uttar Pradesh adjoins village Manjhawali, as thereins it has been mentioned, that the revenue boundaries of Uttar Pradesh adjunct to village Manjhawali, in Haryana, rather are of south western boundary of Atta Gujran and western boundary of Aurangpur. The said confusion but obviously has not conclusively unsettled with respect to the acquisition of title by the present petitioners in the years 1957-1987 from their vendors. The said acquisition of title was in respect of revenue estates which occurred in the territory of Uttar Pradesh, but subsequently it appears that on account of change in the course of river Yamuna, resultantly the apposite alluvion and diluvion deposits, but entering on to the domain of village Manjhawali in the State of Haryana and in respect whereof the Collector Ballabgarh vide order dated 28.03.2008 (Annexure P-7), has stated, that a contentious dispute has arisen amongst the parties with respect to the present disputed lands, which was to be settled by the civil Court. As such, reiteratedly the supra confusion, thus gets erased from the speakings, as occur in the order supra, which but *prima facie*, speaks that the disputed lands have migrated from the apposite revenue estate of Uttar Pradesh, on to the revenue estate nomenclatured as village Manjhawali, which now exists in the territory of the State of Haryana.

51. The said acquisition of title was entered in the revenue records maintained in the establishment of the revenue department,

which then was existing in the State of Uttar Pradesh. Though, yet it has been very consistently stated by the learned Addl. A.G., Haryana, that there had never occurred any changes in the course of river Yamuna nor therebys any alluvion or diluvion deposits purportedly emanating from the adjoining territory of Uttar Pradesh, thus could possibly settle on to the territory of Haryana. To the said effect, he submits that since there is no increase in the size of lands which occur in village Manjhawali, qua therebys, the said submission becoming immensely fortified.

52. However, the said submission to a large extent becomes effaced from observation No. 6, which has been made in the report dated 24.04.2024, furnished before this Court by the Office of Surveyor General of India, whereins, it has been spoken that though there is a document (Annexure -2) appertaining to the transfer of records, from Government of Uttar Pradesh to the Government of Haryana, but no records have been provided by the revenue authorities, either from the State of Haryana, and, the State of Uttar Pradesh, relating to stage when the disputed area was transferred to Haryana from Uttar Pradesh. Naturally therebys, there is some record relating to the apposite transfers taking place but it has not emerged. Resultantly therebys the supra submission made before this Court looses its efficacy. The said submission also becomes paled in the light of the inferences supra which has been drawn from the order dated 28.03.2008 (Annexure P-7), rendered by the Collector, Ballabgarh.

53. Additionally also, from the fact that the present respondents claim title to the present lands from the widow of Pandit Gauri Shankar, who lost title over the subject lands, to his lessees, under the U.P. Zamindari Abolition and Land Reforms Act, 1950.

54. **Moreover, at this stage, it cannot be conclusively stated there was never any change in the course of river Yamuna, since the last century, nor it can be said that on account of such changes in the courses of river Yamuna, there never occurred any alluvion or diluvion deposits alongside the banks of river Yamuna, and, such deposits ultimately settling onto the villages now existing in Haryana, which abut or adjoin the revenue estates which now occur in Uttar Pradesh and which earlier were officialy or un-officialy may be known as Chak Manjhawali in Uttar Pradesh.** <u>The records in the said regard, if any, are in Urdu or in Persian, thus they are required to be initially translated and subsequently, upon the said facts, if becomes spoken thereins, thereupon, all the consequential effects thereof, are required to be employed vis-a-vis all the revenue estates occurring respectively in the State of Uttar Pradesh and in the State of Haryana.</u>

55. <u>Though the said exercise is an enormous exercise but still for settling the rights of the estate holders concerned, whose rights, over the disputed lands, thus were or/are as riparian owners thereovers, and, when therebys the revenue records are required to be updated but only after the apposite measurement(s) are done post the above said</u>

being unearthed. Resultantly, the earlier passed mandamus is required to be well employed by all concerned, even vis-a-vis the present lands, and, subsequently the record of rights are to be updated. They are directed to be so done.

56. Last but not the least, the order dated 28.03.2008 (Annexure P-7), as passed by the Collector Ballabhgarh, when for all the supra stated reasons *prima facie*, assigns truth to the petitioner's claim, that they did *prima facie*, acquire a valid title to the disputed lands, through a registered deed of conveyance becoming executed by the vendors.

57. Reiteratedly, in sequel, therebys, it appears that some records of rights in respect of the disputed lands were transferred from the revenue establishments in the State of Uttar Pradesh to the revenue establishment in the State of Haryana. Since the said records have not surfaced, therebys, the same are required to be brought to the fore, at the instance of the concerned revenue officials/officers respectively in the State of Haryana and State of Uttar Pradesh. In case, there is any omission on the part of any concerned, thereupons, the respective Chief Secretaries of the State of Haryana and/or of the State of Uttar Pradesh are directed to draw such action as deemed fit against the errant revenue officers/officials concerned.

58. Moreover, for suppressions of the said records, an adverse inference shall be recorded against the revenue officers/officials in the State of Haryana, besides therebys, all the supra submissions addressed

before this Court, by the learned State counsel, but shall loose in their entirety, all the force thereof, if any.

59. Moreover, since the acquisition of title to the disputed lands, thus by the present petitioners was but prior to the acquisition of a tainted title by the respondents concerned, from the widow of Pandit Gauri Shankar, who lost title over the subject lands, to his lessees, on enactment of the U.P. Zamindari Abolition and Land Reforms Act, 1950. Resultantly, when the subsequent acquisition of title by the respondents, when but *prima facie,* is tainted thereupon, the authorities are directed to launch such proceedings as deemed necessary against the respondents concerned.

60. Rapat No. 270 dated 28.03.1995, which though has been cancelled, and, wherebys the respondents concerned, who acquired a defective title vis-a-vis the disputed lands, thus are prima facie, holding impermissible possession, over the subject lands, thereupon, the respondents concerned are directed to, in accordance with law, after taking such lawful steps to ensure the cancellation of the subsequently executed prima facie, tainted sale deed, also to ensure lawful restoration of possession of the disputed lands, vis-a-vis the present petitioners.

61. However, prior thereto, the mandamus passed by this Court through orders recorded by this Court on 20.07.2023 and on 20.02.2024, upon, CWP-19103-2016 and CWP-24641-2017, be ensured to be complied with by all concerned, within the time frame mentioned thereins.

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Final Order of this Court.

62. For all the reasons stated (supra), this Court allows the instant writ petition, and, besides makes the hereinabove underlined direction(s), and, also passes the hereinafter mandamus upon both the State of Haryana and the State of Uttar Pradesh.

a) The revenue records appertaining to the transfer of the disputed area from Uttar Pradesh to Haryana be traced, and revelations therein be brought to the fore, and, subsequently the record of rights be updated strictly in terms of all the observation(s) made above.

b) Directions are passed to the Surveyor General of India, to with the help of both the revenue agencies in the State of Haryana and in the State of Uttar Pradesh, thus undertake the exercise of studying the pattern of changes in the course of river Yamuna and the consequential effects thereof, on the territories respectively falling in the State of Haryana and falling in the State of Uttar Pradesh.

c) The updations of records which took place in pursuance theretos.

d) Subsequently a detailed measurement succeeded by erection of boundary pillars be carried out.

63. Since the main case itself has been decided, thus, all the pending application(s), if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

13.02.2025
kavneet singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No