KEWAL RAM

v.

SMT. RAM LUBHAI & ORS. AND VICE VERSA

MARCH 26, 1987

[V. KHALID AND G.L. OZA JJ.]

Code of Civil Procedure, 1908, Order IX Rule 13 scope of—Application for setting aside an exparte decree passed by the Trial Court as well as by the Appellate Court—Whether an application filed under Order IX Rule 13 before the Trial Court is in order.

Joint Decree in a pre-emption suit passed against three defendants one contesting and the other two ex parte and unserved and confirmed by the appellate court—Trial Court accepting an application under Order IX Rule 13 by the unserved defendants, and setting aside the decree against them only—Propriety of the order.

One Kalu Ram was the owner of 90 Kanals of land. He sold this land in favour of three brothers, Kewal Ram, Chet Ram and Kuldip Ram for a consideration of Rs.65,000 by a registered sale deed dated 1.8.1966. Kewal Ram is residing in Village Badala in Jullunder District. Chet Ram and Kuldip Ram were residing at 71, Windsor Road, Forest Gate, London.

Smt. Ram Lubhai, minor daughter of Kalu Ram filed a suit for possession of the land on the ground that she being the daughter of the vendor had superior right of pre-emption as against the vendees who were strangers. Kewal Ram alone was served in the suit. The other two were not served. Substituted service was, therefore, taken for service on them by publication in a vernacular paper. The suit was decreed on 31.7.1969 against all the three defendants, ex parte against Chet Ram and Kuldeep Ram. Kewal Ram filed an appeal against this decree and judgment. He made his brothers Chet Ram and Kuldip Ram as pro-forma respondents giving their village address for service. In the appeal also they were served by substituted service. The appeal was heard on 5.1.1971 and was dismissed.

On 24.3.1971, Kuldip Ram and Chet Ram filed an application under Order 9, Rule 13 of C.P.C. in the Trial Court for setting aside the ex-parte decree against them on the ground that they were neither served in the Trial Court nor in the Appellate Court. The Trial Court

A accepted the application and set aside the decree passed. Against this order dated 10.1.1972, the plaintiff filed a revision petition in the High Court of Punjab and Haryana as C.R.P. No. 147 of 1972. The High Court felt that there was no error of jurisdiction in the order sought to be revised, but held that since Kewal Ram had contested the suit, there was no ground to set aside the decree against him. On this around, the B petition was partly allowed. The decree against Kewal Ram was allowed to stand but was set aside against the other two. The review petition filed by Smt. Ram Lubhai was dismissed by the High Court. Hence the appeals by special leave.

Dismissing the appeals, the Court,

C

HELD: It is well settled that when a decree of the Trial Court is either confirmed, modified or reversed but the Appellate decree, except when the decree is passed without notice to the parties, the Trial Court decree gets merged in the appellate decree. But when the decree is passed without notice to a party, that decree will not, in law, be a decree D to which he is a party. Equally so in the case of an appellate decree. In this case these two persons were not served in the suit. A decree was passed ex-parte against them without giving them notice of the suit. In law, therefore, there is no decree against them. In the appeal also they were not served. If they had been served in the appeal, things would have been different. They could have put forward their case in appeal E and got appropriate orders passed. But that is not the case here. That being so, there is no bar for an application by them before the Trial Court under Order IX, Rule 13, to set aside the ex-parte decree against them. [689G-H; 690A-B]

There is no error of law in allowing a joint decree to stand against F the person who contested throughout while setting aside the ex-parte decree passed against others without serving them personally on admitting the application under Order IX Rule 13 C.P.C. [690C]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 15 of 1974.

G

From the Judgment and order dated 24.1.1973 of the Punjab and Haryana High Court in Civil Revision No. 147/72.

A.B. Rohtagi, A. Minocha and Mrs. V. Minocha for the Appellants in C.A. No. 15 of 1974 and Respondent in C.A. No. 1875 of H 1974.

Rajinder Sachhar, K.B. Rohtagi, Praveen Jain, S.K. Dhingra and Baldev Atrey for the Respondents in C.A. No. 15/1974 and Appellant in C.A. No. 1875 of 1974. A

R.B. Datar, Kailash Vasdev and Naunit Lal for Respondent No. 2 and 3. B

The Judgment of the Court was delivered by

KHALID, J. These two appeals arise from the same suit and can be disposed of by a common Judgment. The facts necessary to understand the question involved in the appeals can be briefly stated as follows: C

One Kalu Ram was the owner of 90 kanals of land. He sold this land in favour of three brothers, Kewal Ram, Chet Ram and Kuldip Ram for a consideration of Rs.65,000 by a registered sale deed dated 1-8-1966. Kewal Ram is residing in Village Badala in Jullunder District. Chet Ram and Kuldip Ram were residing at 71, Windsor, Road, Forest Gate, London E-7. D

Smt. Ram Lubhai, minor daughter of Kalu Ram, the vendor, filed a suit, from which these appeals arise, for possession of the land on the ground that she being the daughter of the vendor had superior right of pre-emption as against the vendees who were strangers. Kewal Ram alone was served in the suit. The other two were not served. Substituted service was, therefore, taken for service on them by publication in a vernacular paper. The suit was decreed on 31-7-1969 against all the three defendants, ex-parte against Chet Ram and Kuldeep Ram. Kewal Ram filed an appeal against this decree and Judgment. He made his brothers Chet Ram and Kuldip Ram as proforma respondents giving their village address for service. In the appeal also they were served by substituted service. The appeal was heard on 5-1.1971 and was dismissed. E F

On 24-3-1971, Kuldip Ram and Chet Ram filed an application under Order 9, Rule 13 of C.P.C. in the Trial Court for setting aside the ex-parte decree against them on the ground that they were neither served in the Trial Court nor in the Appellate Court. This application was resisted by the plaintiff on the ground that the application before the Trial Court was incompetent since the decree had merged in the appellate decree. Evidence was taken and after hearing the parties the Trial Court set aside the entire decree. The Trial Court held that G H

A Kuldip Ram and Chet Ram were residing in England and no attempt was made to serve them personally. That being so, the application was competent in the Trial Court as they were neither served in the Trial Court nor in the Appellate Court.

Against this order dated 10.1.1972, the plaintiff filed a revision B petition in the High Court of Punjab and Haryana as C.R.P. No. 147 of 1972. The High Court felt that there was no error of jurisdiction in the order sought to be revised, but held that since Kewal Ram had contested the suit, there was no ground to set aside the decree against him. On this ground, the petition was partly allowed. The decree against Kewal Ram was allowed to stand but was set aside against the C other two.

Not being satisfied with this order, the plaintiff filed an application for review on the ground that the decree for possession by way of pre-emption was joint against all the defendants, that there was neither specification of the shares in the land for the three different D vendees not specification of the purchase price paid by them and that as such the order setting aside the decree in part was bad. For this purpose reliance was placed on a full Bench decision of the Lahore High Court, reported in AIR 1945 Lahore 184. Reliance was also placed on the proviso to Order 9, Rule 13 C.P.C. This review petition was dismissed by the High Court by order dated May 30, 1973, relying E upon the full Bench decision of the Punjab and Haryana High Court in the case of *Kartar Singh* v. *Jagat Singh and Ors.*, ILR 1971 2 Pun. & Har. 110. Hence these appeals by special leave, the earlier (C.A. 15/74) by Kewal Ram and the other (C.A. 1875/74) by the plaintiff.

The learned counsel for the plaintiff contended that the two F brothers of Kewal Ram were at all relevant times aware of the pendency of the suit and that the Courts below committed an error in setting aside the decree against them. To reinforce this contention, he brought to our notice the fact that even in the appeal filed by Kewal Ram, the address given of his brothers was the village address. He further submitted that the application under Order 9, Rule 13 made G before the Trial Court was incompetent since the decree passed by the Trial Court had merged in the appellate decree. He feebly put forward a case of complicity between the two brothers to defeat the plaintiff.

Kewal Ram who is the appellant in the other appeal contended that the decree was a joint decree and it was impermissible to set aside H the decree in part and keep the decree in tact in part. According to him

when the decree was set aside against his two brothers it should have been set aside against him also. A

Since the decree in question is one based on the right of pre-emption it would have been possible for us to get rid of it and dispose of the appeals by a short Judgment relying upon the Constitution Bench decision of this Court in *Atam Prakash* v. *State of Haryana and Ors.*, [1986] 2 SCC 249 by which decision the Punjab Pre-emption Act, 1913 was struck down except to a small extent. But that course is not open to us in view of the following observation by this Court in the above said Judgment: B

> "We are told that in some cases suits are pending in various courts and, where decrees have been passed, appeals are pending in appellate courts. Such suits and appeals will now be disposed of in accordance with the declaration granted by us. We are told that there are a few cases where suits have been decreed and the decrees have become final, no appeals having been filed against those decrees. The decrees will be binding inter partes and the declaration granted by us will be of no avail to the parties thereto." C D

Since the decree has become final, the principle of the decision is not attracted in this case.

E

That takes us to the question, whether the application under Order IX, Rule 13 before the Trial Court, when the matter had been decided by the appellate court, is proper. We proceed on the finding that neither Kuldip Ram nor Chet Ram was served either in the suit or in the appeal.

F

A feeble contention was put forward that fraud was practised upon these two persons in not getting service effected on them. We do not propose to consider this aspect of the case since this case was not properly pleaded or proved. For the purpose of this Judgment, we accept the conclusions arrived at by the court below that these two persons were not served either in the suit or in the appeal. If so, what is the position. It is well settled that when a decree of the Trial Court is either confirmed, modified or reversed by the Appellate decree, except when the decree is passed without notice to the parties, the Trial Court decree gets merged in the appellate decree. But when the decree is passed without notice to a party, that decree will not, in law, be a decree to which he is a party. Equally so in the case of an appel- G H

late decree. In this case these two persons were not served in the suit. A decree was passed ex-parte against them without giving them notice of the suit. In law, therefore, there is no decree against them. In the appeal also they were not served. If they had been served in the appeal, things would have been different. They could have put forward their case in appeal and got appropriate orders passed. But that is not the case here. That being so, there is no bar for an application by them before the Trial Court under Order IX, Rule 13, to set aside the ex-parte decree against them. This is the only point that arises in the appeal filed by the plaintiff. The appeal has to fail and is dismissed.

The appeal by Kewal Ram is based on the plea that the decree passed by the Trial Court and the Appellate Court, against him and his two brothers, was a joint and indivisible decree and as such the decree cannot be set aside in part, by allowing the application under Order IX, Rule 13. He pressed into service a full Bench decision of the Lahore High Court, reported in 1945 Lahore 184. We do not pause to consider the principle settled in that decision because it has no application to the facts of this case. Here, the plaintiff has obtained a decree against Kewal Ram, based on the right of pre-emption. That decree has to stand, so far as Kewal Ram's right in the property is concerned. She will have to work out here remedies either in execution or by a partition suit to get her share in the properties. There is no merit in Civil Appeal No. 15 of 1974 either. This appeal is also dismissed.

The plaintiff will be entitled to get back two-thirds share of the amount of consideration paid for the property, from Kuldip Ram and Chet Ram. The parties are directed to bear their costs.

S.R. Appeals dismissed.

SHER SINGH & ORS. A

v.

FINANCIAL COMMISSIONER OF PLANNING, PUNJAB & ORS.

March 26, 1987 B

[V. KHALID AND G.L. OZA, JJ.]

Punjab Reorganisation Act, 1966 sections 88 and 89 and the Haryana Adaptation of Laws (States and Concurrent Subjects) Order 1968, clauses 10 and 11, scope and effect of—Whether orders passed by an Authority which has become final would continue after reorganisation. C

Punjab Security of Land Tenures Act, 1930, sections 9(1) (i), 10A(a), 10A(b) and 10B—Rights and duties under—Effect of the order passed thereunder.

D

Balwant Singh was a displaced person from West Pakistan. He owned in all 67 standard acres of land distributed in various villages. On 8.11.1960 when proceedings under the Punjab Security of Land Tenures Act, 1930 were initiated, the Special Collector, Punjab, declared 29 standard acres belonging to him as surplus area. While doing so, the transfers made by him were ignored. He had an option to choose the property which fell to his share. He opted for the entire land belonging to him and situated in village Semani as his permissible area and did not opt for any area in Mohamad Pera, District Ferozepure. The Special Collector reserved for him about 18 standard acres out of his holding in village Dhav Kharial in order to make up his permissible area of 50 standard acres. This part of the order of the Special Collector became final. E F

On 1.11.1966, the Punjab Reorganisation Act, 1966 came into force and as a result thereof, the original properties that belonged to Balwant Singh fell within the new State of Punjab and the new State of Haryana. In December 1966, Balwant Singh, his wife and his minor son filed a writ petition for the issuance of necessary directions to the States of Punjab and Haryana restraining them from utilising the surplus area declared by the Special Collector by his order dated 8.11.1960. A learned Single Judge repelled all the following three contentions; (1) that after the States Reorganisation, persons owning lands both in the State of Punjab and Haryana could claim that they should be allowed G H

A permissible area in both the States separately; (2) that orders passed regarding surplus area prior to Ist November, 1966, and which area had not been utilised till then, should be deemed to have no effect; and (3) that the proceedings declaring surplus land were bad for want of notice to the transferees.

B When the matter was taken up in appeal, the Division Bench felt that an important question was involved and therefore referred the appeal to a Full Bench. The Full Bench considered the matter in detail and held that the order declaring the area to be surplus passed before Ist November, 1966, would continue to have effect after that date, even if that order had not been implemented and persons owning land in the C newly created States is not, in law, entitled for a separate allotment under the Act. Hence the appeal by certificate.

Dismissing the appeal, the Court,

D HELD: 1.1 Under the scheme of the Punjab Security of Land Tenure Act, 1930, it is the entire holding of a person on 15th April, 1953, that is to be taken into consideration for determining his surplus area. The Government acquires the right to utilize the surplus area of a person against whom an order of declaration has been made for the resettlement of tenants ejected or to be ejected. [696D-E]

E 1.2 It is true that alongwith the order declaring the land of an owner as surplus, a corresponding right and duty accrues to the Government to utilise the surplus area for the re-settlement of tenants. In other words, the rights on the land declared as surplus get vested in the Government to be distributed amongst the tenants for re-settle- F ment. This is an indefeasible right that the Government secures. Therefore, the appellant cannot get back the land, if the surplus land had not been utilised. [697A-C]

1.3 There is nothing in the Act which imposes any time limit for the government to utilise the land for the purpose mentioned in the Act. G Nor is there any provision enabling the owner of the land to claim back the land and to get it restored to him if utilization is not made by the government within a specified period. All that the Act contains by way of exception is what is seen in section 10A(b). If at the time of the commencement of the Act, the land is acquired by the government under the relevant acquisition laws or when it is a case of inheritance, the H owner could claim exclusion of such land from his land for fixation of his ceiling under the Act. The second exception itself is further fettered

by the provision in section 10B that where succession had opened after the surplus area or any part thereof had been utilised under section 10A(a), the saving specified in favour of an heir by inheritance would not apply in respect of the area so utilised. To put it short, the government had under the Act an unfettered right without time limit to utilise the land for re-settlement of tenants subject to the two exceptions. Though it is desirable that re-settlement should be done as expeditiously as possible, inaction on the part of the government to re-settle the tenants will not clothe the owner with a power for restoration of the land. [697B-F] A B

2.1 The appellant is not entitled to have the best of the two worlds; in other words to have his quota of full 50 acres in Punjab and another 50 acres in Haryana, this is so because Section 88 of the Punjab Reorganisation Act, 1966 makes the provisions of the Act which was applicable to the old State of Punjab would continue to apply to the new State. In other words, the order passed before 1.11.1966, which became final, declaring the surplus area would be given effect to and the order would be implemented uninfluenced by the division of the State. [697F-G; 698B] C D

2.2 A combined reading of clauses 10 and 11 of the Haryana Adaptation of Laws (States and Concurrent Subjects) Order, 1968 also makes it clear that any order made or anything done or any liability incurred or a right accrued before the Ist November, 1966 would not be affected by the coming into force of the order. [698G-H] E

2.3 Clauses 10 and 11 show unambiguously that the respective State Governments would be entitled to give effect to orders passed before Ist November, 1966, declaring the surplus area by utilising them for the re-settlement of the tenants, despite the re-organisation of the State of Punjab. The orders passed will be respected by both the States. The fact that the land belonging to a particular owner, under fortuitous circumstances, fall in the two newly formed States, will not in any way affect the operation of the orders which had become final prior to Ist November, 1966. To accept the appellant's contention would create anomalies. Persons against whom proceedings under the Act were taken and became final prior to Ist November, 1966, would be entitled to claim lands in both the States while those whose petitions are pending on the date the States Re-organisation Act came into force would be in a disadvantageous position. This is not the object of the Act. Nor the scheme behind it. The States re-organisation was a historical accident. The land owners cannot take advantage of this accident, to the detriment of ejected tenants or tenants in need of re-settlement. [698H; 699A-C] F G H

A CIVIL APPELLATE JURISDICTION: Civil Appeal No. 341 of 1973.

From the Judgment and Order dated 26.2.1971 of the Punjab and Haryana High Court in L.P.A. No. 566/1968.

B Harbans Singh for the Appellants.

R.S. Sodhi and S.K. Sinha for the Respondents.

The Judgment of the Court was delivered by

C **KHALID, J.** This is an appeal by certificate against the Judgment of a full bench of the Punjab and Haryana High Court dated 20th November, 1970. The question involved in this appeal is ingenious but untenable. The question referred to the full bench reads as follows:

D "Whether after the re-organisation of the State of Punjab the land owners owning land in both the States of Punjab and Haryana can claim to retain the permissible area in each State separately after 1st of November, 1966. If so, whether an order declaring the area to be surplus passed prior to the date above said, but which order has not been E implemented and the surplus land so declared has not in fact been utilised would continue to have effect after said date?"

Now the facts. Balwant Singh was a displaced person from West Pakistan. He owned in all 67 standard acres of land distributed in F various villages. According to him he had sold some properties to strangers and the remaining in favour of his wife and minor son in 1957. On 8th November, 1960, when proceedings under the Punjab Security of Land Tenures Act, 1930 (for short the Act) were initiated' the Special Collector, Punjab, declared 29 standard acres belonging to him as surplus area. While doing so, the transfers made by him G mentioned above, were ignored. He had an option to choose the property which fell to his share. He opted for the entire land belonging to him and situated in village Samani as his permissible area and did not opt for any area in Mohamad Pera, District Ferozepore. The Special Collector reserved for him about 18 standard acres out of his holding in village Dhab Kharial in order to make up his permissible area of 50 H standard acres. This part of the order of the Special Collector, though

challenged in appeal, was confirmed by the Commissioner, Jullundar Division on 5th January, 1965, since the appeal before him was held to be barred by limitation. The appellant pursued the matter before the Financial Commissioner, Planning, Punjab, by filing a revision. This was dismissed on 19-2-1965. A

On 1st November, 1966, the Punjab Re-Organisation Act, 1966, (for short, Re-organisation Act) came into force. The State of Punjab was distributed under the Act to the present State of Punjab, State of Haryana, Union Territory of Chandigarh and Union Territory of Himachal Pradesh. In December, 1966, Balwant Singh, his wife and his minor son filed a writ petition for the issuance of necessary directions to the States of Punjab and Haryana restraining them from utilising the surplus area declared by the Special Collector by his order dated 8-11-1960. It is relevant to note here that the original properties that belonged to him fell within the new State of Punjab and the new State of Haryana. B C

The matter came before a learned Single Judge. The following questions were raised before him: (1) That after the States Reorganisation, persons owning lands both in the State of Punjab and Haryana could claim that they should be allowed permissible area in both the States separately, (2) that orders passed regarding surplus area prior to 1st November, 1966, and which area had not been utilised till then, should be deemed to have no effect and (3) that the proceedings declaring surplus land were bad for want of notice to the transferees. These contentions were repelled by the learned Single Judge. D E

He took the matter in appeal. The Division Bench before whom the appeal was posted felt that an important question was involved and therefore referred the appeal to a larger bench. F

The full Bench considered the matter in detail and held that the order declaring the area to be surplus passed before 1st November, 1966, would continue to have effect after that date, even if that order had not been implemented and persons owning land in the newly created States is not, in law, entitled for a separate allotment under the Act. It is this conclusion of the Full Bench that is assailed before us on the strength of a certificate issued by the Court. G

Balwant Singh had more than the permissible area, viz., 50 standard acres with him. The excess area was liable to be declared as surplus. Surplus area was declared by the Special Collector, by his H

A order dated November 8, 1960. It was confirmed in appeal and in revision. The revisional order is dated 19th February, 1965, that is before 1st November 1966, when the Re-organisation Act came into force. As indicated above, by virtue of the Re-organisation of the two States, a part of his holdings fell in the territory of the State of Haryana and another part in the State of Punjab. He evolved a contention that he could have 50 standard acres of land in each of the two States. On this basis, he questioned the order dated 8th November., 1960. He supported this argument with the additional plea that the said order had not been implemented and the land declared surplus not utilised.

C The question that fell to be decided by the full Bench was whether the order which had become final would continue to have effect after the date of enforcement of the Re-organisation Act when that order had not been given effect to and the surplus area had not been utilized by the Government.

D Under the Scheme of the Act, it is the entire holding of a person on 15th April, 1953, that is to be taken into consideration for determining his surplus area. The Government acquires the right to utilize the surplus area of a person against whom an order of declaration has been made for the resettlement of tenants ejected or to be ejected. Sections 9(1)(i) and 10A(a), which read as follows, make the E position clear:

> "9(1). Notwithstanding anything contained in any other law for the time being in force, no land owner shall be competent to eject a tenant except when such tenant .....
>
> F
>
> (i) is a tenant on the area reserved under this Act or is a tenant of a small land owner; or
> ....."

> "10A(a) The State Government or any officer empowered G by it in this behalf, shall be competent to utilise any surplus area for the re-settlement of tenants ejected, or to be ejected, under clause (i) of sub-section (1) of Section 9."

It was contended before the High Court and repeated before us H that the order did not get finality unless the surplus area had in fact been utilised, and tenants re-settled there. This contention did not find

favour with the High Court. We will presently examine whether the contention has any merit. It is true that along with the order declaring the land of an owner as surplus, a corresponding right & duty accrues to the Government to utilise the surplus area for the re-settlement of tenants. In other words, the rights on the land declared as surplus get vested in the Government, to be distributed amongst the tenants for re-settlement. This is an indefeasible right that the Government secures. The appellant is not well founded in his contention that he could get back the land if the surplus had not been utilised. There is nothing in the Act which imposes any time limit for the Government to utilise the land for the purpose mentioned in the Act. Nor is there any provision enabling the owner of the land to claim back the land and to get it restored to him if utilization is not made by the Government within a specified period. All that the Act contains by way of exception is what is seen in Section 10A(b). If at the time of the commencement of the Act, the land is acquired by the Government under the relevant acquisition laws or when it is a case of inheritance, the owner could claim exclusion of such land from his land for fixation of his ceiling under the Act. The second exception itself is further fettered by the provision in Section 10-B that where succession had opened after the surplus area or any part thereof had been utilised under Section 10A(a), the saving specified in favour of an heir by inheritance would not apply in respect of the area so utilised. To put it short, the Government had under the Act an unfettered right without time limit to utilise the land for re-settlement of tenants subject to the two exceptions mentioned above. It is, of course, desirable that re-settlement should be done as expeditiously as possible. Inaction on the part of the Government to re-settle the tenants will not clothe the owner with a power for restoration of the land. The contention of the appellant based on non-utilisation of the land has, therefore, to fail.

A B C D E F

The second question is whether the appellant is entitled to have the best of the two worlds; in other words, to have his quota of full 50 acres in Punjab and another 50 acres in Haryana. Section 88 of the Re-organisation Act makes the position clear. It reads as follows:

> "The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Punjab shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State

G H

A immediately before the appointed day."

As per this Section the provisions of the Act which was applicable to the old State of Punjab would continue to apply to the new State. In other words the order passed before 1st November, 1966, which became final, declaring the surplus area, would be given effect to and the B order would be implemented uninfluenced by the division of the State. After the Re-organisation Act, the Governer of Haryana in exercise of the powers conferred by Section 89 of the Re-organisation Act passed an order by name Haryana Adaptation of Laws (States and Concurrent Subjects) Order, 1968, on 23-10-1968 making it to take effect retrospectively from 1st November, 1966. Clauses 10 and 11 of the C order read as follows:

> "10. The provisions of this order which adapt or modify any law so as to alter the manner in which, the authority by which, or the law under or in accordance with which any powers are exercisable shall not render invalid any notification, order, licence, permission, award, commitment, attachment, by-law. Rule or regulation duly made or issued, or anything duly done, before the appointed day; and any such notification, order licence, permission, award, commitment, attachment, bye-law, rule, regulation or thing may be revoked, varied or undone in likemanner, to the like extent and in the like circumstances as if it has been made, issued, or done after the commencement of this order by the competent authority and under and in accordance with the provisions then applicable to such a case.
>
> 11. Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under any existing State law or any right, privilege, obligation or liability already acquired, accrued or incurred under any such law, or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law."

A combined reading of these two clauses makes it clear that any order made or anything done or any liability incurred or a right accrued before the 1st November, 1966 would not be affected by the H coming into force of the order. These two clauses show unambiguously that the respective State Governments would be entitled to give effect

to orders passed before 1st November, 1966, declaring the surplus area by utilising them for the re-settlement of the tenants, despite the re-organisation of the State of Punjab. The orders passed will be respected by both the States. The fact that the land belonging to a particular owner, under fortuitous circumstances, fall in the two newly formed States, will not in any way affect the operation of the orders which had become final prior to 1st November, 1966. To accept the appellant's contention would create anomalies. Persons against whom proceedings under the Act were taken and became final prior to 1st November, 1966, would be entitled to claim lands in both the States while those whose petitions are pending on the date the States Re-organisation Act came into force would be in a disadvantageous position. This is not the object of the Act. Nor the scheme behind it. The States re-organisation was a historical accident. The land owners cannot take advantage of this accident, to the detriment of ejected tenants or tenants in need of re-settlement. For the above reasons, we hold that the High Court was justified in answering the question referred to it against the appellant. The appeal is accordingly dismissed. There will be no order as to costs.

A B C D

S.R. Appeal dismissed.