

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 17 of 2009

Reserved on: 08.05.2026

Date of Decision: 25.06.2026

Satyender Sharma & Ors

...Appellants

Versus

Sureshta Devi and Ors

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Appellants : Mr Ajay Sharma, Sr. Advocate,
with Mr Atharv Sharma,
Advocate.

For respondents No. 2(a) to : Mr Surender K. Sharma, Advocate.
2(c)

For respondents No. 4(a) to : Mr Sanjay Jaswal, Advocate.
4(d)²

Name of respondent No. 3 stands deleted.

Respondent No.1 stated to have expired.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment
and decree dated 13.12.2007 passed by learned Additional District

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

² Correction carried in compliance to order dated 13.7.2026

Judge (Fast Track Court), Kangra at Dharamshala (learned Appellate Court) vide which the judgment and decree dated 19.06.2003 passed by learned Sub-Judge (II), Nurpur, District Kangra, H.P. (learned Trial Court) were upheld. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).*

2. Briefly stated, the facts giving rise to the present appeal are that the plaintiff filed a civil suit for vacant possession of the suit land mentioned in the headnote and para. 1 of the plaint. It was asserted that the suit land is recorded in the ownership of the plaintiff and other co-sharers. Prakash Chand, S/o Rasila, the predecessor of the defendants, is recorded to be in unauthorised possession of the suit land. Prakash Chand was never inducted as a tenant of the suit land. He took forcible possession of the suit land in the year 1983-84 and raised construction over it. He started tethering cattle and used the construction as the cow shed. The defendants were asked to vacate the possession, but they failed to do so. Hence, the suit was filed to seek the relief mentioned above.

3. The suit was opposed by the defendants by filing a written statement taking preliminary objections regarding lack of maintainability, locus-standi, cause of action and jurisdiction, the suit being barred by limitation, plaintiffs being estopped by their act and conduct from filing the suit. The contents of the plaint were denied on the merits. It was asserted that the suit land was and is in possession of the defendants. Moti Ram, father of defendant No.1, was the tenant of the suit land. He became the owner after the commencement of the H.P. Tenancy and Land Reforms Act. He had constructed a house and raised an orchard of citrus fruits, mango, guava, litchi, pear, etc. on the suit land. The defendants claimed in the alternative that they had become the owners by virtue of adverse possession. Hence, they prayed that the suit be dismissed.

4. A separate written statement was filed by the defendants No. 3 and 4, taking preliminary objections regarding lack of locus-standi and cause of action, the suit being not maintainable, and the suit having not been valued properly for Court fees and jurisdiction. The contents of the plaint were denied on the merits. It was asserted that Moti Ram was in possession of the suit land as a non-occupancy tenant. He resided with his

family in a shed and constructed a cowshed over the suit land. He had also planted various fruits on the suit land. He became the owner after the commencement of the H.P. Tenancy and Land Reforms Act. Prakash Chand used to cultivate the land on behalf of Moti Ram. The plaintiff, in collusion with the settlement officials, got the name of Prakash Chand recorded in the revenue record. Therefore, it was prayed that the suit be dismissed.

5. Separate replications denying the contents of the written statement and affirming those of the plaint were filed.

6. The following issues were framed by the learned Trial Court on 02.12.1998, 22.12.1999, 06.10.2000 and 13.03.2001:

1. Whether the plaintiff is owner of the suit land along with other co-sharers as alleged? OPP
2. If issue No.1 is proved, whether the plaintiff is entitled for possession of the suit land? OPP
3. Whether the suit is within time? OPP
4. Whether the suit has been valued properly for the purposes of court fee and jurisdiction? OPP
5. Whether the suit is not legally maintainable? OPD
6. Whether the plaintiff is estopped by his act and conduct to file the present suit? OPD
7. Whether the plaintiff has no locus-standi to file the present suit? OPD
- 7(a) Whether the defendants have become owner of the suit land by the operation of H.P. Tenancy and Land Reforms Act, as alleged? OPP

- 7(b) Whether the defendants have become owners of the suit land by way of adverse possession, as alleged? OPD
- 8. Whether the plaintiff has no cause of action to file the present suit? OPD
- 9. Whether this Court has no jurisdiction to try and entertain the present suit? OPD
- 9(a) Whether the defendants No.3 and 4 are successors-in-interest of Moti, the original tenant and have become owners in possession by operation of H.P. Tenancy and Land Reforms Act, as alleged? OPD.

10. Relief.

7. The parties were called upon to produce the evidence, and the plaintiff examined himself (PW1). The defendants examined Hukmi Ram (DW1), Rajinder Kumar (DW2), defendant No.1 Shreshtha Devi (DW3), Rimal Singh (DW4), Parkash Chand (DW5), Savitri Devi (DW6) and Dhani Ram (DW7).

8. The learned Trial Court had initially dismissed the suit. The plaintiffs filed an appeal and learned Appellate Court framed additional issues 9(b) and 9(c) and remanded the matter to the learned Trial Court:

- 9(b) Whether Prakash Chand, predecessor-in-interest of defendants No.1 and 2 was neither inducted as tenant over the land in dispute nor he was ever given the land in dispute for cultivation in any other capacity, as alleged? OPP
- 9 (c) Whether said Parkash Chand out of sheer, high-handedness and force took over the possession of the land in dispute in the year 1983-84 and raised construction, as alleged, if so, its effect? OPP

9. The plaintiff examined himself (PW1), and defendant No.1 examined herself (DW3).

10. The learned Trial Court held that Moti Ram, the predecessor-in-interest of the defendants, was recorded as a non-occupancy tenant of the suit land. The name of Prakash Chand was wrongly recorded to be in possession. Moti Ram became the owner of the suit land after the commencement of the H.P. Tenancy and Land Reforms Act. His estate was to be inherited as per the Succession Act and not as per the provisions of the Tenancy Act. The suit was within the limitation and was properly valued for Court fees and jurisdiction. Hence, the learned Trial Court answered issue No. 7(a) in the affirmative, issue No. 7(b) as having become redundant, issue No. 9(a) partly in the affirmative, the rest of the issues in the negative and dismissed the suit.

11. Being aggrieved by the judgment and decree passed by the learned Trial Court, the plaintiff filed an appeal, which was decided by the learned Additional District Judge (Fast Track Court), Kangra at Dharmshala (learned Appellate Court). The Appellate Court concurred with the findings recorded by the learned Trial Court that Moti Ram was in possession of the suit

land as a non-occupancy tenant. He became the owner after the commencement of the H.P. Tenancy and Land Reforms Act. Entry in favour of Prakash Chand was a stray entry. The plaintiff's plea that Prakash Chand had forcibly dispossessed the plaintiff was not proved. Hence, the appeal filed by the plaintiff was dismissed.

12. Being aggrieved by the judgment and decree passed by the learned Courts below, the plaintiff has filed the present appeal, which was admitted on the following substantial questions of law on 28.05.2009.

1. Whether the learned Courts below have erred in relying upon documents Ext.DW1/A to Ext. DW1/C and Ext.DW2/A and thereby erred in coming to the conclusion that the appellants/plaintiffs have failed to prove their dispossession in the year 1983-84?
2. Whether the learned Courts below erred in holding that deceased Moti Ram had become the owner in the year 1975 by operation of the HP Tenancy and Land Reforms Act, despite the defendants leading no evidence on issues No. 7(a)?

13. I have heard Mr Ajay Sharma, learned Senior counsel assisted by Mr Atharv Sharma, learned counsel for the appellants and Mr Surinder K Sharma, learned counsel for respondents No. 2(a) to 2(c) and Mr Sanjay Jaswal, learned counsel for respondents No. 4(a) and 4(d).

14. Mr Ajay Sharma, learned Senior counsel for the appellant, submitted that the learned Courts below erred in dismissing the suit. The name of Moti Ram was deleted from the revenue record, and the learned Courts below erred in holding that Moti Ram was the tenant who had become the owner after the commencement of the H.P. Tenancy and Land Reforms Act. The name of Prakash Chand was recorded by the revenue official after conducting a proper enquiry. Therefore, he prayed that the present appeal be allowed and the judgments and decrees passed by the learned Courts below be set aside.

15. Mr. Sanjay Jaswal³, learned counsel for respondents No. 4(a) to 4(d)⁴, submitted that the learned Courts below have recorded concurrent findings of facts, and this Court should not interfere with the concurrent findings of facts while deciding the regular second appeal. The predecessor-in-interest of the defendants, Moti Ram, was recorded to be the non-occupancy tenant and his name was wrongly deleted. The entry in favour of Prakash Chand is incorrect and was made in connivance with the plaintiffs. There is no infirmity in the judgments and decrees

³ Correction carried in compliance to order dated 13.7.2026

⁴ Correction carried in compliance to order dated 13.7.2026

passed by learned Courts below. Hence, he prayed that the present appeal be dismissed.

16. Mr. Surender K. Sharma⁵, learned counsel for respondents No. 2(a) and 2(c)⁶, adopted the submissions of Mr Surinder K Sharma and prayed that the suit be dismissed.

17. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

Substantial Question of Law No.1:

18. Plaintiff Paras Ram (PW1) stated on oath that Prakash Chand had taken forcible possession in the year 1984-85. He stated, when he was recalled that Prakash Chand had taken possession in Maagh, 1983.

19. The plaintiff's version is not supported by the revenue record. Copy of jamabandi for the year 1975-76 (Ext.PW1/A) shows Moti Ram to be in possession of the payment of *Galabatai Chahram*. An entry in the copy of the jambandi carries with it a presumption of correctness. It was laid down by the Hon'ble Supreme Court in *Partap Singh v. Shiv Ram*, (2020) 11 SCC 242: 2020 SCC OnLine SC 228 that an entry in the jamabandi carries

⁵ Correction carried in compliance to order dated 13.7.2026

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with it a presumption of correctness under Section 45 of the H.P. Land Revenue Act, and the burden is upon the person who alleges to the contrary to disprove it. The burden can be discharged by leading evidence of incapable integrity. Oral evidence is not sufficient to hold that the presumption stands rebutted. It was observed:

16. As per Section 32(2)(a) of the 1954 Act, record-of-rights, i.e. jamabandi, shall include the name of persons who are landowners, tenants or assignees of land revenue and also the rent, land revenue, rates, cesses or other payments due from and to each of those persons and the Government. On the other hand, the periodical record, i.e. khasra girdawari, as mentioned in Section 34 of the 1954 Act, is to be prepared every year as proof of the statements, as mentioned in sub-section (2) clause (a) of Section 32, which includes the name of the landowners, tenants and the rent and land revenue payable. In terms of Section 45 of the 1954 Act, the record of rights as prepared in terms of Sections 32 and 34 of the 1954 Act carries a presumption of truth. Still further, any person who is aggrieved by any entry in the record of rights or a periodical record has a right to invoke the jurisdiction of the civil court for correction of the entries in terms of Section 46 of the 1954 Act.

17. The detailed procedure for recording periodical records of rights, as well as the record-of-rights, in terms of Sections 32 and 34 of the 1954 Act, has been prescribed. The record of rights contains entries of the revenue record for the four years. Such a record of rights carries the presumption of correctness in terms of Section 45 of the 1954 Act and also Section 35 of the Evidence Act, 1872 (for short "the Evidence Act"). Section 109 of the Evidence Act further contemplates whether there exists a relationship of

landowner and tenant, and the burden of proving such a relationship is on the person who affirms it.

18. The relevant provisions of the Evidence Act read as under:

“35. Relevancy of entry in public record or an electronic record made in performance of duty.—An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record or an electronic record is kept, is itself a relevant fact.

109. Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.—When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.”

19. In the State of Himachal Pradesh, jamabandi, under Section 32 of the 1954 Act, as well as Khasra Girdawari, under Section 34 of the 1954 Act, both are record-of-rights in terms of Section 32 of the 1954 Act and have a statutory presumption of truth. How that presumption can be inferred has come up for consideration before this Court in *Harish Chander v. Ghisa Ram*, (1981) 1 SCC 431. This Court held that the entries in the jamabandi carry a presumption of truth, but such presumption is rebuttable. Once that presumption is raised, still another comes to the aid of Respondent 1 [therein] [Ed.: The facts of *Harish Chander*, (1981) 1 SCC 431, are that the name of Respondent 1 therein was recorded as a tenant in the jamabandi for the year 1959-60 (Ext. P-1) and consistently thereafter till the year 1968 (Khasra-girdawaris Exts. P-2 to P-7). Thus, it was

held that the statutory presumption of truth of these entries was attracted to the benefit of Respondent 1 tenant, and so also the reversal of the burden of proof under Section 109 of the Evidence Act, 1872, was held to be to his benefit. The facts of the present case are exactly the opposite—see para 20 below—there is no entry at all in the record of rights of the tenancy claimed by the respondent-defendant herein. Thus, the presumption of the truth of the record-of-rights has been held to enure to the benefit of the appellants whose names were found to be recorded in the record-of-rights.] by reason of the rule contained in Section 109 of the Evidence Act, namely, that when two persons have been shown to stand to each other in the relationship of landlord and tenant, the burden of proving that such relationship has ceased, is on the party who so asserts. It was held as under: (SCC pp. 431-433, paras 2 & 6)

“2. ... Apart from the oral evidence, there is no material on the record which may indicate the falsity of any of the entries in the revenue records, and we are of the opinion that the lower courts were fully justified in relying on them.

6. No suspicion can attach to the entries in the jamabandi for the year 1959-60, nor have the contents of that document been assailed before us. A presumption of truth attaches to those entries in view of the provisions of Section 44 of the Punjab Land Revenue Act. That presumption is no doubt rebuttable, but no attempt has been made to displace it. Further, once that presumption is raised, still another comes to the aid of Respondent 1 by reason of the rule contained in Section 109 of the Evidence Act, 1872, namely, that when two persons have been shown to stand to each other in the relationship of landlord and tenant, the burden of proving that such relationship has ceased is on the party who so asserts. It may therefore be legitimately presumed that the plaintiff continued to possess the land as a tenant till the institution of the suit.”

20. The present is a case where no relationship of landlord and tenant is mentioned in the revenue record, though required in terms of Section 32(2)(a) of the 1954 Act. In the absence of an entry in the revenue record, which is also expected to contain the entry of rent and possession, the tenancy cannot be treated as in existence only on the basis of oral evidence of the witnesses examined by the defendant. The burden of proving the relationship was on the defendant. Such a burden cannot be said to be rebutted only by oral evidence. The witnesses may lie, but the documents do not, is a golden rule. The presumption of truth attached to the revenue record can be rebutted only on the basis of evidence of impeccable integrity and reliability. The oral evidence can always be adduced contrary to the revenue record, but such oral testimony will not be sufficient to hold that the statutory presumption stands rebutted.

21. This Court in *Vishwa Vijay Bharati v. Fakhrul Hassan*, (1976) 3 SCC 642, held that the entries in the revenue record ought to be generally accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent entries. This Court held as under: (*Fakhrul Hassan case [Vishwa Vijay Bharati v. Fakhrul Hassan*, (1976) 3 SCC 642], SCC p. 645, para 14)

“14. It is true that the entries in the revenue record ought, generally, to be accepted at their face value, and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent, entries. The distinction may be fine, but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states, but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot be found a claim to the possessory title.”

22. This Court in *Guru Amarjit Singh v. Rattan Chand*, (1993) 4 SCC 349: AIR 1994 SC 227 was examining a dispute of the relationship of landlord and tenant. A copy of a more than thirty-year-old lease deed was produced to prove the relationship between the landowner and tenant. However, the revenue record did not show any payment of rent, but only the existence of terms of the lease to pay rent. This Court held that non-production of the receipts of payment of rent clearly indicates that there was no relationship between the landlord and tenants.

23. In *Sodhi Transport Co. v. State of U.P.*, (1986) 2 SCC 486: 1986 SCC (Tax) 410], this Court was considering Section 28-B of the Uttar Pradesh Sales Tax Act, 1948, which raises a presumption of sale of goods in a manner prescribed therein. This Court considered Section 4 of the Evidence Act and also the previous judgments and held as under: (SCC p. 496, para 14)

“14. A presumption is not in itself evidence but only makes a prima facie case for a party in whose favour it exists. It is a rule concerning evidence. It indicates the person on whom the burden of proof lies. When the presumption is conclusive, it obviates the production of any other evidence to dislodge the conclusion to be drawn on proof of certain facts. But when it is rebuttable, it only points out the party on whom lies the duty of going forward with evidence on the fact presumed, and when that party has produced evidence fairly and reasonably tending to show that the real fact is not as presumed, the purpose of the presumption is over. Then the evidence will determine the true nature of the fact to be established. The rules of presumption are deduced from enlightened human knowledge and experience and are drawn from the connection, relation and coincidence of facts and circumstances.”

24. In another judgment in *Kumar Exports v. Sharma Carpets*, (2009) 2 SCC 513 : (2009) 1 SCC (Civ) 629 : (2009) 1 SCC (Cri) 823, this Court examined the presumption of fact in proceedings under Section 138 of the Negotiable

Instruments Act, 1881. It was held that bare denial of the passing of the consideration and existence of debt, apparently, would not serve the purpose of the accused. Something, which is probable, has to be brought on record for getting the burden of proof shifted to the complainant. It was held as under: (SCC p. 521, para 21)

“21. The accused also has an option to prove the non-existence of consideration and debt or liability either by letting in evidence or, in some clear and exceptional cases, from the case set out by the complainant, that is, the averments in the complaint, the case set out in the statutory notice and evidence adduced by the complainant during the trial. Once such rebuttal evidence is adduced and accepted by the court, having regard to all the circumstances of the case and the preponderance of probabilities, the evidential burden shifts back to the complainant and, thereafter, the presumptions under Sections 118 and 139 of the Act will not again come to the complainant's rescue.”

25. The presumption of truth attached to the revenue record can be rebutted if such an entry was made fraudulently or surreptitiously (*Vishwa Vijay Bharati v. Fakhrul Hassan*, (1976) 3 SCC 642) or where such an entry has not been made by following the prescribed procedure (*Bhimappa Channappa Kapali v. Bhimappa Satyappa Kamagouda*, (2012) 13 SCC 759: (2014) 5 SCC (Civ) 419). Even in *Guru Amarjit Singh v. Rattan Chand*, (1993) 4 SCC 349: AIR 1994 SC 227, where thirty years old lease deed was produced, this Court had not accepted the proof of the relationship between landowner and tenant in the absence of receipt of payment of rent.

26. Therefore, we find that the presumption of truth attached to the record of rights can be rebutted only if there is fraud in the entry or the entry was surreptitiously made, or the prescribed procedure was not followed. It will not be proper to rely on the oral evidence to rebut the statutory presumption, as the credibility of oral evidence vis-à-vis documentary evidence is at a much weaker level.”

20. Similarly, the copy of the jamabandi for the year 1983-84 mentions Prakash Chand S/o Rasila to be in possession. An entry in the column of remarks shows that the entry in favour of Prakash Chand was recorded as per the order passed in File No. 742 of 1986 by the Land Reforms Officer. Balak Ram s/o Parkash Chand had applied for an electricity connection vide application (Ext.DW1/A) on 07.08.1982. Rattan Chand, one of the co-sharers, filed an application 'Mark A' in which he had claimed that Moti Ram started cultivating the land of Paras Ram in the year 1972, and he was wrongly recorded as a tenant under the owners, which is incorrect. Tehsildar verified the spot position and found a cowshed and trees on the land. These documents came into existence long before any controversy had arisen between the parties and have to be accepted as correct. These documents show that the plaintiff's plea that he was in possession of the suit land and he was dispossessed in the year 1984-85 is incorrect.

20. It was submitted that the application filed by Rattan Chand was not proved and was merely marked. This submission will not help the appellants. The document is a certified copy of the application taken from the public record and is, *per se*,

admissible. Hence, the mere fact that the application was marked and not exhibited will not make any difference.

21. The statement made by the co-owner Rattan Chand in the application that Moti Ram was a tenant under Paras Ram and the copy of the jamabandi for the year 1975-76 (Ext.PW1/A) corroborated the defendant's version that their predecessor Moti Ram was in possession since 1972.

22. The plaintiff filed a copy of the order dated 28.08.1986 (Ext.A6) passed by the Land Reforms Officer, Nurupur, in the proceedings between Rattan Chand and Paras Ram vide which the entry in favour of Savitri Devi, Desh Raj, etc. were ordered to be deleted. The memo of parties does not show that Savitri Devi, Desh Raj, etc., were parties before the Land Reforms Officer, and the order passed by the Land Reforms Officer in their absence will not bind them, hence, no advantage can be derived from this order.

23. Therefore, the learned Courts below had rightly held that the plaintiff had failed to prove his dispossession in the year 1983-84. This substantial question of law is answered accordingly.

Substantial Question of Law No.2:

24. The revenue record shows that Moti Ram was recorded as the tenant on the payment of the *Galabatai Chahram*. All the tenants became the owners after the commencement of the H.P. Tenancy and Land Reforms Act. It was laid down by this Court in *Daulat Ram vs State of HP 1979 Shim. LC 215 = 1978 ILR (HP) 742* that the conferment of proprietary rights was automatic on the appointed day. It was observed:

“23. I have already quoted sub-section (3) of section 104 of the Act. Under the provision of this sub-section, the rights of the landowner in the land held by a tenant shall stand extinguished, and his rights, title and interest shall vest in the tenant free from all encumbrances created by the landowner with effect from 1-10-19/3 on payment of compensation. Therefore, the provision of law does not leave any room for doubt that a person who is entered as a tenant is to become the owner of the land with effect from 1-10-97 3 on payment of compensation or from the date of the publication of the rules, as already stated above. So, there is no question of laying any condition or imposing a fetter on the rights of ownership. The rights that are to vest are without any fetters, and the law enjoins to confer absolute ownership in the land. Therefore, if any fetter is laid that would be in contravention of this statutory provision, and any such condition which is against the statutory provision would be void....”

25. This judgment was followed in *Asif Beg v. Estate Officer/Station Commander, 2016 SCC OnLine HP 4318*, wherein it was observed:

31. It appears that the mandate of Section 104(3) of the HP Tenancy Act is that the moment the Act has come into force, all rights of the landowners are extinguished and a person who is in possession of the land as a non-occupancy tenant steps into the shoes of an owner and becomes the owner. Thus, it is automatic, and there is no question of following any mechanism. May be the Tenancy Rules provide for following any mechanism, but that is only for making entries in the revenue records. It does not mean that in case an entry is not made or a mutation is not effected/recorded, the said person is not the owner.

32. This Court in a case titled *Daulat Ram v. State of Himachal Pradesh, 1979 Shim. L.C. 215* held that a person recorded as a non-occupancy tenant has to reap the fruits. Further held that the State cannot take a plea that the writ petitioners were not tenants and the revenue record is wrong because once the tenants are so recorded, by operation of law, they become the owners of the land. It is apt to reproduce relevant portions of paras 15 and 23 of the judgment herein:

“15.Therefore, from that date, the ownership rights vested free from all encumbrances on the persons who were so recorded as tenants under the landowners or, for the matter of that, the State Government in that land. Therefore, the plea taken up by the Respondents that they were not the tenants is wholly incorrect because they cannot set up this case when they are so recorded, and once they are so recorded, they become the owner of the land by virtue of the operation of law, and they actually became owners with effect from the date of the publication of the rules,

XXX XXX XXX

23. I have already quoted Subsection (3) of Section 104 of the Act. Under the provision of this Subsection, the rights of the landowner in the land held by a tenant shall stand extinguished, and his such rights, title and interest shall vest in the tenant free from all encumbrances created by the landowner with effect from 1101973 on payment of compensation. Therefore, the provision of law does not leave any room for doubt that a person who is entered as a tenant is to become the owner of the land with effect from 1101973 on payment of compensation or from the date of the publication of the rules, as already stated above. So, there is no question of laying any condition or imposing a letter on the rights of ownership. The rights that are vested are without any fetters, and the law enjoins to confer absolute ownership in the land. Therefore, if any fetter is laid that would be in contravention of this statutory provision, and any such condition which is against the statutory provision would be void.”

33. In the cases titled as *Shri Bishambhar Nath v. Shri Hari Chand*, (1993) 3 SLJ 2906; *Sant Ram v. Jash Ram*, (1995) 3 SLJ 2510; and *Jethu through K. Guddi v. Gobind Singh*, (1995) 4 SLJ 3031, it has been held that the proprietary rights stand conferred upon the tenants by operation of law. It is apt to reproduce para 27 of the judgment in *Jethu's case* (supra) herein:

“27. Thus, on the basis of the aforesaid circumstances examined during the trial, both the Courts below acted illegally in ignoring the legally competent evidence supporting the defendants' plea of tenancy as claimed by them. The defendants having been held to be in occupation of the suit land as tenants since 195455, till date, accordingly, under Section 104 of the HP. Tenancy and Land Reforms Act, the proprietary rights in respect of the suit land stood conferred upon them, and they have become owners of the same by operation of law.”

34. In the case titled as *Mohar Singh v. Manju Devi*, (1997) 1 SLJ 304, this Court has held that the conferment of proprietary rights under the HP Tenancy Act is automatic and by operation of law. It is apt to reproduce the relevant portion of para 11 of the judgment herein:

“11.Needless to point out here that after the coming into force of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, the conferment of proprietary right is automatic and by operation of law. The rest of the matter is procedural as required under the Act, and the rules framed thereunder.”

35. This issue stands clinched by the Apex Court in *Civil Appeal No. 5424 of 1998, titled as State of Himachal Pradesh v. Chander Dev*, wherein it has been held that conferment of the proprietary rights is automatic. It is apt to reproduce the relevant portion of the judgment herein:

“.....From the above provisions, it is clear that all rights, title and interest of a landowner shall be extinguished and all such rights, title and interest shall, with effect from the date to be notified by the State Government in the Official Gazette, vest in the tenant free from all encumbrances.”

36. The Apex Court in the case titled as *Tarsem Lal v. Ram Sarup*, 2014 AIR SCW 2886, held that a tenant becomes an owner on the enforcement of the Act. It is apt to reproduce para 13 of the judgment herein:

“13. As per the aforesaid provision, all right, title and interest including a contingent interest of a land owner other than the land owner entitled to resume land under subsection(1) shall be extinguished and all such rights, title and interest in respect of the land in question vest in the tenant, i. e. original plaintiff, free from all encumbrances from the date the Act came into force. The Act was published in the Official Gazette on 21st February, 1974 vide Act No. 8 of 1974. What is not in dispute is that the original plaintiff became owner of the suit land by operation of law and continued to enjoy

all the rights, including the right of irrigation from the common source, which was in possession of the original landlord.”

37. Thus, it is accordingly held that the conferment of the proprietary rights is automatic, by operation of law.

26. Therefore, the order passed by Land Reforms Officer (Ext.P5) deleting the name of Desh Raj from the column of possession was of no effect because Moti Ram had become the owner, and his legal heirs would inherit the land as owners. The Land Reforms Officer had no jurisdiction to delete the name of the owner from the column of possession. Hence, this substantial question of law is answered accordingly.

Final Order:

27. Therefore, there is no infirmity in the judgments and decrees passed by learned Courts below; hence, the present appeal fails, and it is dismissed.

28. Pending application(s), if any, also stand(s) disposed of.

29. Records of the learned Courts below be sent down forthwith.

(Rakesh Kainthla)
Judge

25th June, 2026
(Nikita)