# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**LPA No. 677 of 2009(O&M)**

**Date of Decision: April 29 , 2016.**

Baldev Singh and others ...... APPELLANT (s)

**Versus**

The Financial Commissioner, Revenue, Haryana and others
...... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER**
**HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Abhimanyu Batra, Advocate
for the appellants.

Mr. Anil Mehta, DAG, Haryana.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

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**MAHESH GROVER, J.**

This appeal is directed against the judgment dated 25.03.2009 of learned Single Judge. The only issue to which the challenge has been confined is regarding the inclusion of land belonging to Smt. Parkashi for determining the surplus area in the hands of the big land owner. Regarding the rest, challenge has been given up as noticed in the order dated 22.11.2010.

We noticed that the learned Single Judge has held that the sale in favour of Smt. Parkashi is suspicious. The following is the extract of reasoning given in the impugned order:-

> "The plea that the land owned by Smt. Parkashi be not included in the surplus can not be accepted in the background in which this transaction has been conducted. It has rightly been noticed that this transaction was merely an alibi to prolong the proceedings. Devtan had transferred this land by way of gift to one Deva who was not related to him. Subsequently Smt.Parkashi bought this land from Deva and she is from the family of Devtan. It would be strange to notice that Devtan had first gifted this land to a third person and his close relation has then bought the same from third person. Where was the need to gift the land to third person? If it was gifted then where was the need for a close relation of person gifting the land to buy it? It is in fact a gift to grand daughter-in-law. This is nothing but a malafide transfer aimed at defeating the objective of surplus laws. The Financial Commissioner rightly noticed that this is merely a gift to daughter-in-law like other five collusive decrees made by land owners to his close relatives."

The appellants refer to the sale-deed on record of 17.10.1966 which is much prior to the appointed date of 24.01.1971 as prescribed by Section 3(c) of the Haryana Ceiling and Land Holding Act, 1972.

On due consideration we are of the opinion that the sale-deed which is much prior to the appointed date would be protected to render it ineligible for consideration for the purposes of determination of surplus proceedings of a big land owner. It would be erroneous to oust the said land by basing a conclusion on an inference of suspicion.

The learned Single Judge has noticed that the land originally belongs to one Devtan who transferred it by way of gift-deed to one Deva not related to him from whom Smt. Parkashi bought this land. Smt. Parkashi belongs to the family of Devtan and, therefore, this circuitous route has been treated with suspicion. The fact is that Smt. Parkashi is daughter-in-law of Devtan and the sale being of the year 1966 i.e., much prior to the appointed date would be saved from inclusion in the requisite declaration in the surplus act and necessarily have to be excluded for its purpose. Mere suspicion regarding the transaction would not be a ground to negate the effect of a sale. The finding to this effect by the learned Single Judge being presumptive and conjectural cannot be sustained and is thus negatived.

Consequently, the impugned order dated 25.03.2009 of learned Single Judge is set aside. The appeal is allowed. Consequentially, the land of Smt. Parkashi would stand liberated from the consequences of the Haryana Ceiling and Land Holding Act, 1972.

**( MAHESH GROVER )**
**JUDGE**

**( LISA GILL )**
**JUDGE**

April 29 , 2016.
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