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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-5101-2013 (O&M)
Date of decision : 11.01.2016**

Ramjit Kaur

...Appellant

Versus

Malkiat Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jitender Malik, Advocate
for the appellant.

Mr. Surinder Garg, Advocate
for respondents.1 and 2.

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

AMIT RAWAL, J. (ORAL)

CM-13722-C-2013

For the reasons mentioned in the application, the delay
of 03 days in filing the appeal is condoned.

CM stands disposed of.

RSA-5101-2013

The appellant-plaintiff is in regular second appeal
against the the concurrent finding of fact and law, whereby, suit

for declaration and permanent injunction that the plaintiff-appellant and defendant No. 3 to 8 are the owners of the land measuring 9 kanals 18 marlas and ½ share in 31 kanals 7 marlas, situated at village Bhikhi in pursuance of the exchange deed dated 27.05.1994 and the mutation of the inheritance bearing No.17717 in respect of village Bhikhi is wrong and illegal, has been dismissed by both the Courts below.

Mr. Jitender Malik, learned counsel appearing on behalf of the appellant-plaintiff submits that both the Courts below have committed illegality and perversity in dismissing the suit on the ground that the exchange deed dated 27.05.1994 has not been proved on record whereas, a compromise Ex.P2 was entered into between the parties, in a civil suit filed for permanent injunction against Ujagar Singh, resulted into the passing of the judgment and decree dated 30.11.1999. The respondents-defendants claimed the right and interest/ownership in the aforementioned property by virtue of Will dated 09.04.2012 allegedly executed by Ujagar Singh. Once the land owned by Kulwant Singh, situated in village Ralla, has been exchanged with the Ujagar Singh in respect of the land situated in Village Bhikhi, the successors-in-interest of Ujagar Singh, after his death, are not entitled to claim any right and interest in the property situated at Village Bhikhi. The compromise aforementioned Ex.P-2 referred exchange deed had duly been acknowledged by Ujagar Singh was a sufficient

document, thus, the substantial questions of law arises for adjudication.

Mr. Surinder Garg, learned counsel appearing on behalf of the respondents-defendants submits that after the death of Kulwant Singh, the property situated in village Ralla, has been mutated in favour of the appellant-plaintiff and as per the revenue record the land had been given to Ujagar Singh vide exchange deed dated 27.05.1994. In essence, exchange deed was not affected and, therefore, the suit at the instance of the appellant-plaintiff amounted to undue enrichment, much less, act of greed.

I have heard the learned counsel for the parties and appraised the paper book.

It is a matter on record that mutation, after death of Kulwant Singh in respect of land situated in village Ralla, had been entered in favour of the appellant-plaintiff. Had exchange deed actually been taken place, the appellant-plaintiff could not have stealthily got the land situated at Village Ralla by virtue of the exchange deed, on the premise that Kulwant Singh had purportedly become the owner of the property situated at Village Bhikhi. In essence, the exchange deed has not been proved on record, much less, the compromise Ex.P-2 allegedly arrived at in the suit for permanent injunction, thus, the Courts ought not to have decided the title. The plea, viz-a-viz, the suit property at Village Bhikhi belonging to Ujagar Singh, in my view, is an act of aggrandizement, as the appellant-plaintiff-Ramjit Kaur and other

LRs of Kulwant Singh has already sold some part of land owned by Kulwant Singh in Village Ralla by way of execution of sale deed as she had an eye on the property belonging to Ujagar Singh.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial questions of law arises to be determined by this Court.

Accordingly, the appeal is dismissed.

11.01.2016
yogesh

(AMIT RAWAL)
JUDGE