

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.1909 of 2011 (O&M)
Date of decision: July 17, 2017

Rajesh Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Mamli, Advocate for the petitioner.
Mr. Rohit Arya, AAG, Haryana.

Rajan Gupta, J.

Petitioner has prayed for a writ in the nature of certiorari for quashing order dated 11.02.2009 (Annexure P-2), passed by Collector, Fatehabad, order dated 27.01.2010, passed by Commissioner, Hisar Division, order dated 30.03.2010, passed by Collector, Fatehabad as well as order dated 30.9.2010, passed by Commissioner, Hisar Division, Hisar.

Brief factual matrix of the case is that petitioner and respondent No.5 are real brothers. Petitioner filed a civil suit against respondent No.5 on the basis of a family settlement and accordingly, a decree dated 20.12.2008 was passed for exchanging the land between the two brothers. Thereafter, petitioner submitted decree to the Collector for registration. However, Collector raised objection regarding depositing of stamp duty as there was no sale deed of the land and directed petitioner to deposit Rs.80,438/- for stamp duty and Rs.950/- for registration fee. Petitioner preferred appeal before the Commissioner, who remanded the case back to

the Collector, vide order dated 27.01.2010, with a direction to decide the matter afresh after affording opportunity of hearing to the parties. Petitioner again appeared before the Collector. Vide order dated 30.3.2010, the Collector directed both petitioner and respondent No.5 to pay stamp duty in equal shares on the collector rate. Petitioner preferred appeal, which was dismissed by the Commissioner on 30.9.2010.

I find no infirmity with the orders passed. It is evident that the property, which is subject matter of exchange, is not the ancestral property of petitioner and respondent No.5, thus, such type of exchange cannot be taken as family settlement. I find no scope for interference in writ jurisdiction. The writ petition is without any merit and same is hereby dismissed.

(RAJAN GUPTA)
JUDGE

July 17, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No