

**LPA no. 36 of 2016 (O&M)
and connected cases**

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

1. LPA no. 36 of 2016 (O&M)

M/s Neptune Land and Housing Pvt. Ltd and others

....Appellant(s)

Versus

Krishna and others

...Respondent(s)

2. LPA no. 41 of 2016 (O&M)

M/s Acme Builders Pvt. Ltd. and others

....Appellant(s)

Versus

Financial Commissioner, Gurgaon and others

...Respondent(s)

3. LPA no. 95 of 2016 (O&M)

M/s Orris Infrastructure Pvt. Ltd

....Appellant(s)

Versus

Financial Commissioner, Revenue Department, Haryana and others

...Respondent(s)

Date of Decision :09.03.2017

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

**Present : Mr.Girish Agnihotri, Sr. Advocate with
Mr. Arvind Seth, Advocate for the appellants**

Mr. G.S.Wasu, Addl. AG, Haryana

**Mr. Suneet Kumar, Advocate for
respondent nos. 1 to 3 in LPA no. 36 of 2016
respondent no. 5 in LPA no. 41 of 2016
for respondent no. 5 in LPA no. 95 of 2016**

MAHESH GROVER, J.(ORAL)

This order will dispose of three Letters Patent Appeals bearing nos. 36, 41 and 95 of 2016.

The instant LPAs are against the impugned judgment dated 14.9.2015 with a prime grievance that the writ Court failed to take into consideration the crucial fact of final order of partition having come into existence and acted upon whereas the challenge in the writ proceedings was merely to interim orders and therefore the remand mandated by the learned Single Judge in the present scenario would be inconsequential and incapable of being implemented.

It is not in dispute that the private respondents who were writ petitioners impugned only the interim proceedings and not the final order of partition even though it came into being on 18.9.2008 and acted upon in 2011 and pursuant thereto the Government sanctioned the building plans and consequently even allotments have been made in favour of certain persons.

Learned counsel for the private respondents candidly concedes that the final order of partition was never impugned and has still not been impugned till date.

If that be so, then we are of the opinion that the learned Single Judge fell in error in not taking into consideration this aspect. The challenge in the writ proceedings to interim process/orders passed by the revenue authorities fell into insignificance in the wake of the final order of partition passed on 18.9.2008 which remains unquestioned. It is settled principle of law that if final partition has been ordered and acted upon as well, the process cannot be reopened. Learned counsel for the private respondents

of the final partition and in this situation, the principles of constructive res judicata would dictate that the right to challenge the same stands waived off. In any eventuality, indisputably the partition has been acted upon and therefore, we are of the opinion that the mandate of the learned Single Judge has largely been rendered illusory and therefore need not be given effect to.

With the aforesaid observations, all the appeals stand disposed of.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

09.03.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No