

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

CR No.4812 of 2014 (O&M)

Date of decision: 28th February, 2018

Risal Singh

... Petitioner

Versus

Ram Kumar & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Kunal Mulwani, Advocate for the petitioner.

Mr. Jagdish Manchanda, Advocate for the respondents.

FATEH DEEP SINGH, J.

The brief sketch of this dispute between the parties is that one Suraj Bhan, who has since died on 09.07.1998, executed a registered Will dated 04.03.1998 bequeathing his estate in favour of his four sons and wife, the latter named Mahakali Devi who has since died on 14.08.2003. Out of the total land so bequeathed measuring 9 Kanals 1 Marla, land measuring 8 Kanals and 14 Marlas was acquired by Haryana Urban Development Authority (HUDA) and compensation was deposited for the six children of deceased couple, i.e. four sons and two daughters, who had earlier filed reference in terms of Section 18 of the Land Acquisition Act. The same was disposed off vide Award dated 30.08.2008 holding all these six heirs entitled to equal compensation. One of the children, present respondent No.1 Ram Kumar filed a petition under Section 276

of the Indian Succession Act for grant of probate of the Will and through orders dated 15.01.2011 the Court of learned Additional Civil Judge (Senior Division), Jind allowed the petition and probate of Will was granted. The private respondents then assailed this order before the Court of learned Additional District Judge, Jind who through impugned findings dated 28.10.2013 dismissed the appeal upholding the orders of the trial Court. That is how the parties have come up before this Court in the instant matter.

Heard Mr. Kunal Mulwani, Advocate for the petitioner and Mr. Jagdish Manchanda, Advocate representing the respondents and perused the records of the case.

It is the very own stand of the parties to this Lis that Suraj Bhan executed registered Will dated 04.03.1998 and died on 09.07.1998 and the part of this property inherited by their mother Mahakali Devi who died on 14.08.2003 devolved by natural succession upon all the legal heirs in equal shares. It is there and is not refuted that all the children had filed reference under Section 18 of the Land Acquisition Act on this strength thus invariably leads to the one and the only conclusion that all the children accept that a Will was executed by the deceased father Suraj Bhan, owner of the property in question. Even during the course of arguments before this Court, the Will Ex.P2 is not put to doubt. The Award of the Land Acquisition Collector ordered equal distribution of the compensation of this acquired land equally among four brothers and two sisters. The Will has denoted each and every part and parcel of the

property of Suraj Bhan which will devolve upon which child and it is not a case where there is a general bequeath of equal shares among all the children and thus, specific portions having been bequeathed and the parties to it admit that the Will was duly executed and acted upon, and the impugned findings based on the site plan Ex.P`1 which learned counsel for the petitioner could not rebut in his submissions, shows that each and every beneficiary of this Will had accepted the covenants of the Will by their stand taken in different proceedings including before the Land Acquisition Collector. The very factum and contents of the Will and accepting the compensation, is in itself illustrative and shows that each and every child having accepted the Will, is barred by the principle of estoppel from re-agitating the same and which is the primary basis which has led to this. It is well settled law that when a person knowingly accepts benefits of a document subsequently he is estopped from denying validity or binding effect of such a document, as it has been held by their Lordships of Hon'ble the Supreme Court in '**V. Chandrasekaran v. Administrative Officer**' 2012 (12) SCC 133 that such a plea would be contrary to the principles of right and good conscience.

Reverting back to the instant case, in the present proceedings which are by way of petition under Section 276 of the Indian Succession Act for grant of probate, the parties are bound by the conditions laid down in the Will which invariably form part of the Will and bind the beneficiary of the bequeath. The two courts below have well considered the evidence and have rightly observed that none of the parties have taken

any contrary stand to the intention of the testator reflected from the Will Ex.P2. The impugned findings certainly are correct appreciation of the evidence and the law. The present petition being hopelessly without any merit, stands dismissed. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

February 28, 2018
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No