

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-A-120-MA of 2013 (O&M)
Date of Decision: 22.05.2018**

State of Haryana

...Applicant-appellant

VERSUS

Lalban Verma and another

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amrik Narwal, DAG, Haryana
for the applicant-appellant.

Mr. Suman Jain, Advocate
for respondent no.1.

Mr. Navneet Singh, Advocate
for respondent no. 2.

SURINDER GUPTA, J.(Oral)

Affidavit of Deputy Superintendent of Police, State Vigilance Bureau, Gurugram, about death of respondent no. 1-Lalban Verma, filed by learned State counsel is taken on record.

Learned State counsel submits that respondent no. 1-Lalban has passed away on 09.08.2015. He has also placed on record his death certificate.

In view of submission of learned State counsel, prosecution of respondent no. 1-Lalban stands abated.

Heard.

State Vigilance Bureau, Haryana, Panchkula registered FIR no. 21 dated 25.03.2008 against respondents no. 1 and 2 after conducting an enquiry. Brief facts of the case have been incorporated in para 2 of the judgment passed by learned Additional Sessions Judge, Gurgaon, which are

reproduced as follows:-

“2.During investigation it was revealed that Lal Ban, the then District Revenue Officer-cum-Assistant Collector, Ist Grade, Gurgaon decided a case against the Gram Panchayat, Abheypur, Gurgaon without having the powers to entertain the said suit. The land in question was about 72 kanals and 11 marlas. Sh. Shyam Lal r/o village Abheypur was declared as the owner of the said land. The said order was passed by Lal Ban, being the Assistant Collector, Ist Grade on 1.7.2004 in connivance with Sh. Shyam Lal son of Nathan. In the order, he clearly stated that he had gone through the arguments raised by both the parties and he was of the view as per the record and citations referred by the petitioners, the petitioners had clearly proved the issues 1 to 9 and the respondents could not prove their version at all thus decreed the case in favour of Shyam Lal and declared him as the owner of the land. Against the aforesaid order dated 1.7.2004 passed by him, the Gram Panchayat filed an appeal on 4.8.2004 (Case No. 38) before the Court of District Collector, Gurgaon. The Court of Sh. R.P. Bhardwaj, District Collector, Gurgaon set aside the order of Assistant Collector stating that the disputed land in question was Gair Mumkin Pahad and no possession of Shyam Lal could be proved on this land. As per the revenue record, the land in question was

related to Shamlat owned by Gram Panchayat. Further the lower Court had decided the case under Punjab Tenancy Act, which was not applicable in that matter rather Punjab Village Common Land Act was applicable. The concerned court had no power to entertain such types of cases. Only the Collector could entertain the cases of ownership under Section 13A of the Village Common Land Act. As per letter of Sh. Rakesh Gupta, IAS the then Deputy Commissioner, Gurgaon the Assistant Collector Ist Class had no right to entertain such types of suits but Sh. Lal Ban, passed the orders against the Gram Panchayat in connivance with Sh. Shyam Lal in violation of the rules and regulations and by misusing his powers. He passed order dated 1.7.2004 beyond his jurisdiction causing loss to the State Exchequer and thus the present case was registered against the accused. Thereafter, investigation was carried out. After completion of necessary formalities of investigation, police prepared its report under Section 173 Cr.P.C. and presented the same before the Court.”

Both the respondents were charge-sheeted for offences punishable under Sections 447/120-B IPC. Learned trial Court observed that prosecution has failed to prove that respondent no. 2-Shyam Lal is a trespasser over the suit land. As per revenue record, his father Nathan was in continuous possession of the land as *gair marusi* and after his death,

respondent no. 2-Shyam Lal has inherited the tenancy rights. His possession over the suit land cannot be termed as illegal or unauthorized.

Allegation against respondent no. 1-Lalban Verma (since deceased) was that he in connivance with respondent no. 2-Shyam Lal declared Shyam Lal as owner of the suit land. His order, however, was set aside in appeal. So far as passing of order by respondent no. 1-Lalban Verma is concerned, it is not a matter in dispute in this case. Regarding possession over the suit land, learned trial Court found that possession of respondent no. 2-Shyam Lal was legal and valid and there was no allegation of criminal trespass over the suit land.

On perusal of judgment of Court below, I find no legal or factual infirmity therein calling for any interference in this appeal. No ground is made out to allow leave to appeal under Section 378 (4) Cr.P.C. This application has no merit and the same is dismissed. Consequently, the appeal is dismissed.

May 22, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No