

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

RSA No. 4895 of 2016(O&M)

Date of decision: 24.9.2018

Man Singh (deceased) through LR Santosh and othersAppellants

VERSUS

Babu Ram and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.P. Sharma, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.12757-58-C of 2016

Heard.

Allowed as prayed for.

Delay of 147 days in re-filing and 20 days in filing the appeal
stands condoned.

Disposed of accordingly.

CM No.12759-C of 2016

Prayer in this application is for bringing on record the legal
representatives of Man Singh (since deceased).

Heard.

Allowed as prayed for subject to just exceptions.

Disposed of accordingly.

RSA No.4895 of 2016

The present appeal directs challenge against concurrent
findings recorded by the Courts whereby plea of counter
claimants/respondents No.1A to 1C namely Prem Nath Gupta etc. with

regard to suit land on the basis of exchange deed dated 29.06.1992 has been allowed and they have been held entitled to get compensation in regard to acquisition of land in question, by the State.

Suresh Kumar, son of Moti Ram filed Civil Suit No.55 in March 1993 and another civil suit No.137 filed in April 1996 were consolidated and decided vide judgment and decree dated 27.10.2004 passed by the Additional Civil Judge (Senior Division), Narnaul (hereinafter to be referred as the trial Court) and claim of Suresh Kumar to be co-owner to the extent of $2/3^{\text{rd}}$ share along with performa defendant Man Singh (appellant herein) and their entitlement to get the revenue entries corrected in their favour was dismissed and respondents No.1A to 1C have been held to be owner of the suit property and entitle to compensation of suit land.

The judgment and decree passed by the trial Court became subject matter of challenge at the instance of Man Singh – appellant now represented by his LRs.

Perusal of the judgments would reveal that Sh. Moti Ram, predecessor in interest of Suresh Kumar, Babu Rram and Man Singh litigated upto Hon'ble the Supreme Court in respect of some dispute qua surplus land or tenant permissible area etc. During pendency of appeal by way of Special Leave Petition before Hon'ble the Supreme Court, Sh. Moti Ram passed away and Babu Ram – respondent No.1 pursued the proceedings that were ultimately decided in favour of Sh. Moti Ram. Sale deed bearing No.501 dated 09.06.1992 was executed in favour of defendant No.1. Subsequent thereto, Babu Ram – defendant No.1

exchanged land measuring 1 bigha 2 biswas with defendants No.1A to 1C vide exchange deed No.690 dated 29.06.1992.

Both the Courts have consistently held that the said exchange deed executed by Babu Ram in favour of defendants No.1A to 1C has been signed by Suresh Kumar and Man Singh, therefore, they are estopped from claiming $2/3^{\text{rd}}$ share in the land which came to be acquired by HUDA.

Counsel for the appellants is not in a position to successfully assail the concurrent findings recorded by the Courts that exchange deed in favour of respondents No.1A to 1C bears the signatures of Suresh Kumar and Man Singh. Meaning thereby that they had admitted correctness of the exchange deed executed by Babu Ram in their favour. In the given scenario, Suresh Kumar and Man Singh are estopped by their act and conduct to claim any right in the property which is subject matter of exchange deed Ex.DW5/B on the basis whereof, respondents No.1A to 1C became owners qua land measuring 1 bigha 2 biswas and entitle to get compensation in regard there.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

SEPTEMBER 24, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no