

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

**RSA No.5044 of 2016 (O&M)**

**Date of decision:08.04.2019**

Jeet Singh @ Ajit Singh and others ... Appellants

Vs.

State of Haryana and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Abhinav Sood, Advocate for  
Mr. Vikram Singh, Advocate  
for the appellants.

**AMIT RAWAL J. (Oral)**

**C.M.No.13090-C of 2016**

For the reasons stated in the application which is duly supported by an affidavit, delay of 13 days in re-filing the appeal is condoned.

C.M. stands allowed.

**C.M.No.13091-C of 2016**

The application is allowed, subject to all just exceptions. Legal representatives of Rajender-appellant no.5 as mentioned in the application are ordered to be brought on record for the purpose of prosecuting the present appeal.

**RSA No.5044 of 2016 (O&M)**

The present regular second appeal is directed against the concurrent findings of fact and law whereby suit of the appellant-plaintiffs

for declaration, possession and mandatory injunction seeking ownership alongwith proforma defendants in respect of suit land by challenging the mutation of 1986, has been dismissed by the trial Court and affirmed in appeal.

It was alleged that plaintiffs and proforma defendants were the owners of land measuring 21 kanals 10 marlas comprised in various killas was acquired by the department for the purpose of erecting of brick klin and mutation 2131 dated 1.4.1986 in this regard was entered into. The compensation for the standing crop and for the costs of land was awarded to the owners and the ownership of the land vested with the State Government. The work of making pucca canal has been completed and the suit land was lying vacant at the spot and the purpose for which the land acquired was achieved and therefore, the land was declared surplus by the Financial Commissioner.

The defendants opposed the suit and admitted that suit land was acquired by the Land Acquisition Collector vide notification no.39R in the year 1970-71 but before that was owned and possessed by Mam Chand and Badlu. There was no assurance in the notification of returning of the land. Even vacation of the land at the spot was emphatically denied. The land was acquired by the State Government and thereafter, defendants no.1 and 2 were absolute owners in possession.

The trial Court framed as many as 12 issues including the issue of Relief. The plaintiffs in support of the averments brought on record umpteen number of documents i.e. Ex.P1 to Ex.P31 by examining himself

as PW1 and Manjeet as PW2. On the other hand, defendants examined DW1.

Mr. Abhinav Sood, learned counsel appearing on behalf of the appellants submitted that similar controversy has already been adjudicated by the Hon'ble Supreme Court in **State of Haryana and another vs. Suraj and others 2004(12) SCC 538** whereby land as per the standing order 28 framed by the State Govt. read with para 493 of Land Administration Manual has been reverted to the owners. In the present case also, Ex.P19 reflected the inclusion of village as per the para 87 of the Financial Commissioner standing order. Both the Courts below have erroneously dismissed the suit, thus, there is gross misreading, in other words, uncontroverted documents have been mis-interpreted.

I am afraid the aforementioned arguments are not sustainable, for, no such evidence has been placed on record as was the case in the cited (supra) wherein the land was transferred to various departments. Even otherwise, notification do no reveal any condition of reversion of the land. The standing orders would not change the colour of the notification. Once the land had been acquired by the State Government and remained unutilized, but in view of the provision of Land Utilization Act, the Government is at liberty to utilize the land as per the prevailing law which fact has not been noticed in the judgment cited (supra). The same cannot be said to be binding precedent.

As an upshot of my findings, arguments of Mr. Sood, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)  
JUDGE

April 08, 2019  
savita

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |