IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4629-2015 (O&M)
Date of decision : 28.05.2020

Dal Singh and others

...Appellants

Versus

Ajmat Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Chetan Mittal, Sr. Advocate with
Mr. Himanshu Gupta, Advocate and
Mr. Kunal Mulwani, Advocate for the appellants.

Mr. O.P. Tanwar, Advocate for respondent No.1.

Mr. R.S. Longia, Advocate for respondent Nos.2 and 3.

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ANIL KSHETARPAL, J.

The plaintiffs-appellants have filed the present Regular Second Appeal against the judgments passed by both the Courts below dismissing the suit filed by them seeking declaration that they are owners in possession of the suit land.

In the considered view of this Court, the question which needs adjudication is "Whether a wrong entry in the revenue record necessarily give rise to a cause of action for the purpose of calculating limitation for filing a civil suit for declaration that the plaintiffs are owners in possession of the land?"

Parties are being referred to by their name or original status in the suit.

FACTS:-

Dispute in the present litigation is with regard to mutual exchange of land comprised in two parcels of land. Hence, it would be appropriate to refer both the parcels as Table-A and Table-B. The land comprised in Table-A is as under:-

Khewat No.206/210, Khatoni No.384, 385, 386, Khasra No.62/24/2(1-16), 63/2(8-0), 81/1(8-0), 81/1/2(1-0), 62/25(8-0), 82/1/1(0-7), 2/1(4-19), 2/2(2-9), 3(8-0), 4(8-0), 5 (8-0), 6(7-8), 7(8-0), 8(8-0), 9(8-0), 10(7-2), 12/2(4-4), 13 (8-0), 14(8-0), 15(7-8), 16(8-0), 17(8-0), 18(8-0), 19/1(4-4), 22(8-0), 23(8-0), 24/1(4-0), 83/6(0-10).

Whereas land comprised in Table-B is as under:-

Khewat No.26/24, Khatoni No.45,46,47, Khasra No.79/23, 8(2-4), 76/1/1(3-3), 10/1(6-16), 20(8-0), 21(8-0), 77/25(8-0), 67/18/2(5-8), 19(0-8), 22(6-16), 76/9/2(5-7), 11 (7-6), 12(8-0), 19(8-0), 20(8-0), 27(1-12) and khewat No.184/188 min, khatoni No.345, 348 khasra no.90/5(8-0), 9/1(8-0), 10(8-0), 11(8-0), 20(8-0), 67/25/1(1-15), 91/2(8-0), 3(8-0), 4(8-0), 12(8-0), 91/19(8-0), 22/1(6-4).

Janak Singh, Ajmat Singh, brothers alongwith one Nirmala were owners in possession of land comprised in Table No.B. Nirmala was owner to the extent of half share whereas Janak Singh and Ajmat Singh, both brothers, were jointly owners to the extent of remaining half share. Land comprised in Table-A was owned by the plaintiffs, Dal Singh etc. It is claimed that in the year 1958, land comprised in Tables A and B were exchanged. Subsequent to the exchange, Smt. Nirmala, Janak Singh and Ajmat Singh became owners in possession of land under Table-A whereas the plaintiffs became owners of land comprised in

Table-B. The respective parties were put in possession. However, mutation entry with regard to exchange could not be sanctioned immediately. However, on 02.10.1974, vide mutation No.1872, entry with regard to mutation of exchange of land inter se was duly sanctioned. There is another part of facts which are required to be noticed. Ajmat Singh's daughter Kirnu and his nephew Jasmer Singh got transferred the land belonging to Smt. Nirmala pursuance to a judgment and decree dated 29.04.1972. Smt. Nirmala successfully challenged the aforesaid judgment in a separate Civil Suit which was decreed on 28.03.1981. Thus, the effect of judgment and decree dated 29.04.1972 stood erased. Smt. Nirmala Devi executed a Will bequeathing her share in the land in favour of Rattan Singh son of Jamadar, Mahavir Singh son of Mohan Singh and Sushila Devi daughter of Rattan Singh. After the judgment and decree dated 28.03.1981, Revenue Authorities sanctioned the mutation No.2087 in favour of Nirmala Devi. On her death, mutation No.2224 was sanctioned in favour of Rattan Singh, Sushila Devi and Mahavir Singh. Rattan Singh, Sushila Devi and Mahavir Singh thereafter transferred their entire share of land received from Nirmala Devi in favour of defendant Nos.1 to 3 namely Ajmat Singh son of Faggu, Kanwarjit Singh and Raj Kumar, sons of Bhagirath. However, while sanctioning mutation Nos.2087 and 2224, revenue authorities committed an error in sanctioning the mutation of land in favour of Nirmala Devi and subsequently in favour of Rattan Singh etc. with respect to land comprised in Table-B in place of Table-A. The plaintiffs on coming to know of this fact, filed a suit for declaration that the mutation Nos.2087 and 2224 are wrong. However, the suit was dismissed as withdrawn as defendants assured them that they will get these corrected. A settlement deed was also *written between the parties. However, once again mutation No.2682 has been sanctioned by the Assistant Collector, IInd Grade. It is further pleaded that Smt. Kirno Devi and Jasmer Singh had sold the land received from Smt. Nirmala Devi under the judgment and decree dated 29.04.1972 which was later on set aside vide decree dated 28.03.1981.*

Defendant No.1 Ajmat Singh filed written statement on 4.8.1998. There is no such entry in the revenue record regarding alleged exchange and hence, all the facts and assertions made in the plaint were denied. However, at the fag end of the trial, an application for amendment of the plaint was filed on behalf of plaintiffs on 25.7.2009 which was allowed vide order dated 27.7.2009. On 6.1.2007, defendant No.1 was proceeded exparte. Later on, he was given liberty to join proceedings of the suit w.e.f. 7.8.2009. Hence, amended written statement was filed by him on 10.8.2009. Certain preliminary objections were taken to the effect that plaintiffs have not disclosed the correct facts. Averment of exchange as mentioned in the plaint were admitted. It was submitted that both the parties were owners of land at village Ajrani, Tehsil Thanesar, District Karnal now Kurukshetra, which was also exchanged by the parties vide mutation No.421 dated 28.1957. The parties remained owner in cultivating possession of the land situated at village Ajrani according to exchange and no one challenged the same. It was also submitted that as regards the exchange of land situated in village Ajrana Kalan, mutation No.1435 was sanctioned on 20.3.1963. The piece of land belonging to Faggu Ram etc. was transferred to Surmukh Singh etc. and vice versa. However, due to some technical objection mutation No.1435 was not incorporated in the revenue record. In the meanwhile, Nirmala Devi suffered a decree dated 29.04.1972 in favour of Jasmer Singh and Kirano

Devi. Consequently, mutation No.1828 was sanctioned in favour of Jasmer Singh and Kirno Devi. Nirmala Devi challenged the decree dated 29.4.1972 by filing a suit No.60 of 1979 without challenging the mutation No.1872 according to which the land stood recorded in the names of Jasmer Singh and Kirno Devi. It was submitted that Nirmala Devi did not implead the persons who were directly affected by decree dated 28.3.1981. Hence, said decree was not binding on the persons who were not party to the suit. Defendant No.2 executed a sale deed No.1211 dated 25.6.1996 by treating the said exchange valid out of the land which was received by Nirmala Devi in the exchange. Hence, defendant No.1 by filing written statement on 10.8.2009 admitted the case of the plaintiffs and made a prayer for deciding the suit in accordance with facts mentioned in the preliminary objection No.1 of the written statement.

Defendants No.2 and 3 filed a separate written statement, wherein preliminary objections were taken that the suit was hit by principle of res-judicata as the plaintiffs had filed a civil suit titled as Surmukh Singh and others Vs. Rattan Singh and others before the Civil Court which was dismissed on 26.7.1994 and as such, present suit was not maintainable. Civil suit Smt. Nirmala Vs. Jasmer and Kirno etc. had been decided on 29.3.1981 and decree dated 29.4.1972 was set aside, upheld up to Hon'ble High Court. On merits, it has been admitted that Nirmala Devi was owner to the extent of ½ share and Janak Singh and Ajmat were the owners to the extent of ¼ share each in the land detailed in para No.1 of the plaint. A collusive decree dated 29.4.1972 was obtained by Jasmer Singh and Kirno by filing a suit against Nirmala Devi which was based upon fraud and misrepresentation. The same was set aside vide

> *judgment and decree dated 29.3.1981. Alleged story regarding the exchange is false. Nirmala Devi did not exchange the land with plaintiffs and alleged exchange, if any, is not binding upon the rights of the answering defendants. Revenue entries showing that the plaintiffs are in possession of the land are wrong. The plaintiffs are not in possession of the suit land. It was admitted that the mutation was sanctioned in favour of Nirmala Devi and after her death, the mutation was sanctioned in favour of Rattan Singh, Sushila Devi and Mahavir Singh. It was submitted that Rattan Singh had transferred his share in favour of answering defendants. Ajmat Singh filed a suit against Rattan Singh etc. and in that suit, Mahavir Singh and Sushila transferred their shares in favour of Ajmat Singh. Revenue officer has rightly sanctioned mutation No.2224 whereas mutation No.1872 was wrongly sanctioned in favour of plaintiffs. The plaintiffs filed a civil suit for challenging mutation Nos.2087 and 2224 qua the land mentioned in para No.3(b) of the plaint but the same was dismissed. It was denied that answering defendants ever agreed to get the decree amended as per mutation No.1872. No such compromise was ever effected between the parties."*

At the outset, it is apt to note that a connected RSA No.2865 of 2010 titled as Raghu Nath and others Vs. Ajmat Singh and others, inter se between defendant No.1 to 3 alongwith their other family members was decided vide judgment dated 08.04.2019.

It is undisputed between the parties and their counsels that oral exchange in State of Haryana, is permissible as relevant provisions of the Transfer of Property Act, 1882, with respect to the exchange of the land, have not been extended to the area within the State of Haryana. In exchange, the land falling in Table-B came to be owned by the plaintiffs whereas the land comprised in Table-A came to be owned and possessed by defendant Nos.1 to 3. In the revenue record, due to some technical objections, mutation of the exchange was not sanctioned by the revenue authorities. However, the possession of the land comprised in Table-B remained with the plaintiffs whereas the possession of the land comprised in Table-A remained with the defendants. An entry with regard to exchange was entered in the revenue record on 20.03.1963 vide mutation No.1435, however, mutation was not approved by the Collector. In any case, since the possession had already been exchanged, therefore, jamabandi for the year 1965-66 recorded that the plaintiffs are in possession of the land comprised in Table-B because of exchange. This entry was again reiterated in the next jamabandi i.e. for the year 1970-71.

There is a long history of unfortunate litigation inter se among the family members of the defendants which shall be have to be referred to. Kinru son of Ajmat (defendant No.1) and Jasmer son of Janak got transferred the share of land belonging to their Aunt Nirmala, vide judgment and decree dated 29.04.1972. Smt. Nirmala successfully challenged its correctness. The suit filed by Smt. Nirmala was allowed on 28.03.1981 declaring the judgment and decree dated 29.04.1972 to be null and void. The first appeal as well as second appeal filed against the aforesaid judgment and decree dated 28.03.1981 were dismissed.

In the meantime, mutation No.1872 was sanctioned as per the exchange in the year 1958 and the plaintiffs were recorded to be owners in possession of the land described in Table-B.

After the litigation in between Nirmala Devi on one hand and Kinru and Jasmer on the other hand resulted in the judgment and decree dated 28.03.1981, the mutation No.2087 Ex.P7 dated 15.04.1981 was sanctioned in favour of Nirmala Devi. Nirmala Devi was depicted to be the owner in possession as per exchange of land. However, subsequently, the mutation Ex.P7 was revised. She was depicted in the revenue record to be the owner of the land as per the original ownership as it existed before the exchange of the land in the year 1958. In the remark column of Ex.D8 (the revised mutation), factum of cancellation of the aforesaid mutation has been recorded.

Nirmala Devi executed a Will in favour of Rattan Singh, Sushila Devi and Mahavir Singh. On the death of Nirmala Devi, mutation No.2224 dated 10.06.1985 Ex.D9 was sanctioned in favour of Rattan Singh, Sushila Devi and Mahavir Singh. This mutation was also sanctioned by referring to the land owned by Nirmala Devi originally, ignoring the exchange in the year 1958. Again, there is a remark in Ex.D9 with respect to cancellation of mutation.

Ajmat, Kanwarjit Singh and Raj Kumar, defendant No.1 to 3 filed two separate suits against Rattan, Sushila Devi and Mahavir Singh (the beneficiaries of the Will executed by Smt. Nirmala Devi). By way of consent decree dated 15.10.1987, Ex.D20 and Ex.D21, 1/4th share each of the total land was transferred. This was the total land representing the share of Nirmala Devi in the joint land.

The plaintiffs filed a suit for declaring mutation No.2087 and 2224 being illegal, null and void with respect to land mentioned in Table-B.

During the pendency of the suit, it is claimed by the plaintiffs that the defendants assured that they will get the decree dated 15.10.1987 amended and a deed of compromise was reduced into writing. Thereafter, the plaintiffs as well as defendants did not appear before the Court resulting in dismissal of the suit in default under Order IX Rule 3 of the Code of Civil Procedure, as both the parties were not present. In the meantime, mutation No.2682 was sanctioned by the Assistant Collector, IInd Grade in favour of Nirmala qua her share in respect of land received in exchange. The aforesaid mutation was challenged and the Assistant Collector ordered that the mutation be sanctioned as per the decree in favour of Smt. Nirmala and, therefore, mutation Ex.P14 records that the previous mutation has been cancelled.

The plaintiffs filed the present suit as noticed above. It may be mentioned here that defendant No.1 although initially contested the suit but later on amended the written statement and admitted the claim of the plaintiffs, while giving detailed facts. Defendant Nos.2 and 3 contested the suit filed by the plaintiffs.

Learned trial Court, dismissed the suit filed by the plaintiffs on the ground that the claim has become time barred and hit by rule of res-judicata. Learned First Appellate Court held that the judgment of the learned trial Court with respect to issue No.4 i.e. the plea of res judicata is erroneous because previous suit was dismissed in default. However, remaining of the trial Court finding has been affirmed.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the

Courts below and the record.

On the one hand, learned Senior Counsel appearing on behalf of the appellants, has submitted that the suit filed by the plaintiffs, has been wrongly dismissed, being barred by limitation. He, while elaborating, has submitted that mere change of entry in the revenue record does not give rise to cause of action. Hence, he submitted that the limitation would not begin to run or reckoning date for calculating the limitation cannot be taken from the date of cancellation of the mutation. He further submitted that the plaintiffs are owners in possession of the land from the year 1958 without any interference as per the oral exchange. The plaintiffs filed the present suit when their possession was recently sought to be disturbed.

On the other hand, learned counsel for the respondents, has submitted that the plaintiffs have failed to prove the deed of compromise and both the Courts have correctly held that the suit filed by the plaintiffs was time barred.

On critical analysis of the arguments of learned counsel for the parties, this Court is primarily called upon to adjudicate upon whether the suit filed by the plaintiffs is barred by limitation. At this stage, it would be appropriate to note that Part-III of Schedule to the Limitation Act, 1963, provide for period of limitation with respect to the suits relating to the declaration which is extracted as under:-

"PART-III – Suits relating to declarations

56. To declare the forgery of an instrument issued or registered	*Three Years*	*When the issue or registration becomes known to the plaintiff.*
57. To obtain a declaration that	*-do-*	*When the alleged adoption*

an alleged adoption is invalid, or never, in fact, took place		*becomes known to the plaintiff.*
58. To obtain any other declaration	*Three years*	*When the right to sue first accrues."*

Present case would fall within the scope of Article 58 of the Schedule. The period prescribed for filing the suit for declaration is three years. It is provided that the time would begin to run when the right to sue first accrues. Question here is "whether the right to sue first accrued on the date change in the revenue entry is made by the authorities?. In the considered view of this Court, answer to the aforesaid question has to be in negative. The right to sue or in other words cause of action for filing the suit is not solely dependent on change of entry in the revenue record. This aspect has been elaborately discussed by the Court while deciding a connected RSA No.2865 of 2010 titled Raghu Nath and others Vs. Ajmat Singh and others, on 08.04.2019. While drawing distinction between the suits filed for declaration and cancellation of instruments, it was held that an entry or error in the revenue record does not necessarily give rise to cause of action to file the suit. The cause of action would arise, in the facts of the present case, when the defendants came to dispossess the plaintiffs.

Thus, the learned Courts below have erred in recording a finding that the suit filed by the plaintiffs is time barred.

Now the stage is set for examining the reasons given by the learned First Appellate Court to dismiss the appeal filed by the plaintiffs. The reasons in brief are as under:-

1) Oral evidence to prove oral exchange is lacking and defendant No.1 although admitted the case of the plaintiffs by filing amended written

statement but did not appear in evidence.

2) The amended written statement filed by defendant No.1 is unauthorized and, therefore, it cannot be considered.

3) In mutation No.1435 Ex.P12, land given in exchange to the family of Surat Singh has not been specified.

4) In the year 1974, when the mutation of oral exchange was sanctioned, Nirmala Devi was not the owner of the property.

5) Judgment and decree dated 28.03.1981 as also the Will executed by Smt. Nirmala Devi has not been challenged.

On consideration of the entire case, this Court is of the considered view that in the present case, oral evidence does not have much role to play. It is well settled that when documentary evidence is clear, the documentary evidence is to be given preference. Still further, the oral exchange is of the year 1958. The suit was filed in the year 1997 after a period of approximately 40 years whereas the evidence in the suit was being recorded almost after a period of 50 years from the date of oral exchange. Most of the witnesses as well as parties to the exchange had died.

Still further, learned First Appellate Court has drawn adverse inference against the plaintiffs on the ground that defendant No.1-Ajmat Singh did not appear in evidence. Ajmat Singh is defendant No.1, the party opposite. Plaintiffs cannot be expected to have any control over Ajmat Singh. The adverse inference could be drawn against the plaintiffs, if the plaintiffs had not produced their evidence. However, on non-appearance of defendant No.1, no adverse inference could be drawn against the plaintiffs. Defendant No.1 in the amended written statement admitted the claim of the plaintiffs.

Next reason assigned by the learned First Appellate Court does not require any further discussion. It is well settled that when pursuant to the amendment of the pleadings by opposite party, an opportunity is granted to the opposite party to file consequential response, the party filing response cannot be permitted to travel beyond the consequential amended reply. However, such event cannot operate against the plaintiffs. In any case, counsel appearing for respondent No.1-Ajmat, during the hearing before this Court, has admitted that the exchange as alleged by the plaintiffs did take place in the year 1958 and the possession of land was exchanged by the parties.

Next reason assigned by the learned First Appellate Court with respect to the fact that mutation No.1435 Ex.P12 does not refer to the land which had come to the share of the family of Surat Singh is also erroneous. The learned First Appellate Court in its judgment has placed very heavy reliance on the various mutations which have been entered by the revenue authorities. It may be noted here that mutations are sanctioned by the officials in exercise of their executive functions as provided under Section 34 of the Punjab Land Revenue Act. Hence, the mutations entered by the Executive Authorities are not binding on the Courts. In fact, the sanctioning of mutations does not normally even give rise to a cause of action to file a civil suit.

Next reason assigned by the learned First Appellate Court is also equally erroneous. The First Appellate Court has held that in the year 1974, when the mutation was sanctioned by the revenue officials, Nirmala

Devi was not the owner. Learned First Appellate Court has overlooked certain undisputed facts. Smt. Nirmala was undisputed owner of half share in the entire land owned by the family of Surat Singh. Nirmala Devi was the owner of half share whereas remaining half was owned by Ajmat and Janak sons of Faggu Singh. Nirmala was the widow of late Sh. Daulat Ram son of Surat Singh. Jasmer Singh son of Janak Singh and Kirno son/daughter of Ajmat filed a suit. It is not clear that whether Kirno was a son or a daughter. However, that would not make any difference. Jasmer Singh and Kirno got share of Nirmala Devi transferred in their favour on the basis of judgment and decree dated 29.04.1972. Smt. Nirmala Devi challenged the validity of judgment and decree dated 29.04.1972 by filing a suit on 04.12.1975 which was decreed on 28.03.1981. The judgment and decree dated 29.04.1972 was set aside. First appeal as well as second appeal, against the same were dismissed. Thus, Nirmala Devi always remained owner till she died. Therefore, the First Appellate Court erred in observing that in the year 1974, when the mutation of exchange was sanctioned, late Smt. Nirmala Devi was not the owner of the property.

Next reason assigned by the learned First Appellate Court is also wrong. It may be noted here that the First Appellate Court has erred in observing that since judgment and decree dated 28.03.1981 and the Will executed by Smt. Nirmala Devi dated 07.04.1981 has not been challenged, therefore, the suit filed by the plaintiffs is not maintainable. At this stage, it would be appropriate to observe that the concept of challenge to a judgment and decree or a sale deed is alien to civil law. It would be appropriate to notice difference between the suit filed under Section 31 and Section 34 of the Specific Relief Act. This Court while deciding a connected Regular Second Appeal No.2865 of 2010 has already held that the Courts must be conscious of the difference between a suit filed for cancellation of written instrument and declaration.

Still further, the judgment and decree passed on 28.03.1981 was not required to be challenged by the plaintiffs as they are not affected by the same. This is a judgment and decree passed in between the family members of Surat Singh representing defendants. The plaintiffs are not affected by the aforesaid decree. In the aforesaid judgment and decree, only inter se rights between Smt. Nirmala on one hand and Sh. Jasmer and Sh. Kirno on the other hand had been adjudicated. Similarly, the plaintiffs were not required to challenge the validity of Will executed by Smt. Nirmala on 07.04.1981. At this stage, it may be relevant to note that Smt. Nirmala had executed a registered Will on 07.04.1981 bequeathing her entire property in favour of Rattan, Sushila Devi and Mahavir Singh. The aforesaid heirs of Smt. Nirmala Devi would inherit whatever was owned by Smt. Nirmala Devi on the date of her death as per the Will. Therefore, the plaintiffs were not effected by the aforesaid Will and hence they were not required to challenge the Will.

Now, let us examine the evidence available on record.

It may be significant to note that first jamabandi available on the record is of the year 1965-66 Ex.P1. On careful perusal thereof, it is apparent that the plaintiffs i.e. the family of Jodha Singh is recorded to be in possession of the property described in para 3(b) of the plaint, which has been extracted above. No doubt, the land comprised in a few khasra numbers is not mentioned, however, that would not be of much significance. Still further, jamabandi for the year 1965-66 records that the defendants are in possession of the land described in para 3(a). Thus, it is apparent that the possession of the land was exchanged by the parties. This position continues in the jamabandi for the year 1970-71 (Ex.P2). In 1963, mutation No.1435 was entered. However, the reasons which have not come on record, the Collector in exercise of its revisional powers refused to approve the mutation. However, the parties never reverted to the position prior to the exchange of land. Parties kept trying and ultimately on 02.10.1974, the mutation of the exchange of the land was sanctioned. The plaintiffs, the family of Jodha Singh were recorded owners in possession of the land described in para 3(b) of the plaint (Table "B"). This mutation was duly reflected in the jamabandi for the years 1975-76, 1980-81. The problem started when in the year 1986, the mutation of the judgment and decree dated 28.03.1981 was required to be sanctioned. Nirmala Devi had filed the suit challenging the correctness of the judgment and decree dated 29.04.1972 in favour of Kirno and Jasmer which was allowed and judgment and decree dated 29.05.1972 was set aside. The revenue authorities were expected to sanction the mutation of the share which she got in exchange of the land. However, the revenue authorities committed a blunder and sanctioned the mutation as per the land originally owned by Smt. Nirmala ignoring the oral exchange of land. This error continued when mutation of inheritance of Smt. Nirmala, on the basis of Will dated 07.04.1981 executed by her in favour of Rattan, Sushila Devi and Mahavir Singh, was sanctioned. Because of errors committed by the revenue authorities, once again the parties were forced to resort to litigations.

Learned First Appellate Court has also erred in ignoring sale deed executed on 25.06.1996, Ex.P27 by the family of Surat Singh. This sale deed is with respect to land measuring 10 kanals out of land comprised in Khewat No.240 as per the jamabandi for the year 1990-91. The aforesaid sale deed clearly proves that the parties had accepted the oral exchange and had been alienating the property in accordance with the land received in exchange. As per jamabandi for the year 1990-91, land comprised in khewat No.240 came to the share of family of Surat Singh after oral exchange in the year 1958. Thus, the parties had acted upon the exchange. Still further, revenue record from the year 1965-66 clearly proves that parties had pursuant to the exchange transferred possession and continue to enjoy the possession on the aforesaid basis.

Hence, the judgments and decrees passed by the Courts below are set aside. The suit filed by the plaintiffs is ordered to be decreed as prayed for.

Appeal allowed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

28.05.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No