

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

(i) **LPA No.929 of 2021 (O&M) in
CM-9502-CWP-2021 in
CWP No.28935 of 2017**

Kanvar Singh and others

...Appellants

Versus

State of Haryana and others

... Respondents

(ii) **LPA No.930 of 2021 (O&M) in
CM-9492-CWP-2021 in
CWP No.27949 of 2017**

Date of Decision : 05.10.2021

Kanvar Singh and others

..Appellants

Versus

State of Haryana and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. M.L. Sharma, Advocate for the appellants.

Ms.Tanisha Peshawaria, Deputy Advocate General, Haryana

Mr.Chetan Mittal, Sr. Advocate with
Mr.Harsh Bunker, Advocate and
Mr.Udit Garg, Advocate for respondent no.5

ASHOK KUMAR VERMA, J.

1. This order will dispose of LPA Nos.929 and 930 of 2021 as the same arise out of a common order dated 25.8.2021 passed by learned Single Judge of this Court whereby applications filed by respondent no.5 for vacation of interim order dated 17.01.2018 for maintaining status quo have been allowed and the status quo order has been vacated.

2. A blurb from the voluminous paper-books is that respondent No.5 had purchased six acres of land out of khewat Nos.52 and 53 of village Mewka, Tehsil and District Gurgaon from respondent No.6 vide registered sale deed dated 11.12.2013. The aforesaid sale deed was executed after joint land having been partitioned vide *Sanad Takseem* dated 01.08.2011. Licence for development of residential plotted colony was issued on 27.02.2012 and mutation of sale was sanctioned on 06.02.2014. The appellants challenged *sanad takseem* dated 01.08.2011 by filing appeal before the Collector alleging that they had wrongly been proceeded against ex parte since no service was effected upon them. As such the appellants pleaded that *Sanad Takseem* dated 01.08.2011 was illegal. The appeal filed by the appellants was dismissed by the Collector vide order dated 25.07.2014 and the revision petition filed by the appellants also stood dismissed by the Commissioner vide order dated 07.08.2014 and even second revision petition was rejected by the Financial Commissioner vide its order dated 06.04.2017. The appellants have challenged the aforesaid orders before this Court by filing CWP No.28935 of 2017 and CWP No.27949 of 2017. Vide order dated 17.01.2018, the learned Single Judge of this Court directed the parties to maintain status quo, as it existed on the date of the order.

3. Thereafter, respondent No.5 filed applications bearing CM-9502-CWP-2021 and CM-9492-CWP-2021 stating that the appellants have violated the status quo order dated 17.01.2018 by alienating part of their share of the land. After hearing the parties, vide impugned order dated 25.08.2021, the learned Single Judge of this Court allowed the above said applications filed by respondent No.5 and vacated the interim order dated 17.01.2018. Aggrieved against the impugned order dated 25.08.2021, the appellants have filed the present Letters Patent Appeals.

4. Learned counsel for the appellants submits that the *Sanad Takseem* dated 01.08.2011 has illegally been procured by respondent no.5 in ex parte proceedings as the appellants have not been served, and therefore, the said sanad takseem is not binding on the parties. Learned counsel submits that moreover, unless final decision is taken on the matter of partition, the learned Single Judge should not have vacated the stay. Learned counsel further submits that the learned Single Judge erred in not granting time to file additional affidavit countering mutations produced by respondent no.5 as Annexures R-5/9 and R-5/10. Additional affidavit could not be filed since one of the appellants was suffering from paralytic attack and he cannot move but the request was denied by the Single Judge of this Court and the impugned order was illegally passed. Learned counsel further submits that only the Release Deeds were executed without consideration from father to son and it is settled proposition of law that release deeds/mutations never confer the title and the same can always be rebutted. As a last bastion, learned counsel submits that when mutation never confers the title, mutations (Annexures R-5/9 and R-5/10) cannot be treated as

violation of order dated 17.01.2018 passed by this court. Therefore, the impugned order passed by the Single Judge of this Court is blatantly illegal and is liable to be set aside.

5. On the other hand, Mr.Chetan Mittal, learned Senior Counsel for respondent no.5 vehemently counters the submissions made by the learned counsel for the appellants. Learned Sr. Counsel submits that the appellants have flagrantly violated the status quo order dated 17.01.2018 deliberately by alienating part of their share of the land and mutations regarding the said alienation are Annexures R-5/9 and R-5/10. These alienations have not been denied in the reply filed by the appellants to the applications for vacation of status quo order filed by respondent no.5. The allegation regarding non-service of the appellants has been found to be factually incorrect by three Courts below. Learned Sr. Counsel submits that since the appellants have deliberately violated the status quo order dated 17.01.2018, this Court has rightly vacated the status quo order vide impugned order dated 25.08.2021.

6. We have given our thoughtful consideration to the submissions of the learned counsel for the parties and have gone through the paper-book.

7. We are not impressed with the submissions of the learned counsel for the appellants which are blown away from the very fact that the appellants executed Release Deeds/Mutations dated 25.03.2018 and 03.09.2019 (Annexures R-5/9 and R-5/10) on the basis of family settlement from father to son during the currency of the status quo order dated 17.1.2018 passed by learned Single Judge of this Court. There are specific recitals in the above said Release Deeds that the possession of land was

actually given to the transferee. The alienations of part of the land through execution of Release Deeds/mutations (Annexures R-5/9 and R-5/10) have not categorically and specifically been denied by the appellants either in the reply filed to the applications for vacation of stay before the learned Single Judge of this Court or in the grounds of LPAs filed by the appellants before this Court. Alienating property means creating third party interest. If a Court orders to maintain the status quo on the property, it means that two components of the property that comes under the purview of status quo- one is possession and the other is title. When status quo is ordered, it means that the person who is holding the possession and title shall refrain himself from creating any third party interest and any encumbrance on the property until the matter is finally disposed of by the court. In the present case, the appellants have alienated the property in favour of the son through Release Deeds/Mutations. Alienation/transfer of property is not such an act that takes place suddenly in a spur of moment. It happens with a pre-meditated and thoughtful mind. The appellants have deliberately, intentionally and with ulterior motive violated the aforesaid status quo order passed by this Court by alienating the property in favour of the son through the said Release Deeds. Thus we are of the considered opinion that it is nothing, but sheer violation of the status quo order which this Court cannot brook.

8. Moreover, interim relief of status quo is an equitable remedy. The principle of equity is that one who seeks equity must do equity. In the present case, the appellants have not acted equitably by alienating the property through Release Deeds thereby flagrantly violating the status quo order. It is settled principle of law that violation of the order defeats equity.

Thus, the learned Single Judge of this Court has rightly vacated the status

quo order. We find no reason to interfere with the impugned order dated 25.08.2021 passed by the learned Single Judge of this Court.

9. In view of the above, we find no merit in these appeals which are accordingly dismissed. Consequent upon the dismissal of appeals, applications filed under Order 41 Rule 27 read with Section 151 CPC (CM Nos.2215-LPA-2021 and 2216-LPA-2021) and other pending applications, if any, shall also stand disposed of accordingly.

(ASHOK KUMAR VERMA)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

05.10.2021

Whether speaking/reasoned

Yes

Whether Reportable

Yes