

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

2023:PHHC:104279-DB

241

CWP-17457-2021

Date of Decision : **August 10, 2023**

**JEET RAM (DECEASED) THROUGH HIS WIFE KARMI DEVI AND
OTHERS**

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Akshay Rana, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

Mr. Paritosh Vaid, Advocate
for respondent No.3.

SURESHWAR THAKUR. J.(Oral)

1. It appears on a reading of para No.4 of the impugned order, that the respondents herein filed a petition under Section 42 of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as '**the Act of 1948**') but the said petition was dismissed on 4.11.1992. Further-more it is also detailed in the impugned order that subsequently another petition was filed in the year 1975 but the said petition was also dismissed on 13.2.1979. The successive dismissal orders made on the said petitions, unless they remained unchallenged, and, the said challenge succeeded before the authorities concerned, thereupon, the said orders would acquire binding and conclusive effect.

2. It appears on a reading of the impugned verdict that despite conclusivity and binding effect being, thus bestowable to the successive dismissal orders, as made on the petitions (Supra), yet a third round of litigation becoming entered into amongst the litigants, and, that too belatedly in the year 2014. The author of Annexure P-9 who allowed the said motion, appears to thereby circumvent the principle of estoppel, merely through his assigning a reason, that in the earlier motions, there was no dispute with respect to disputed *khasra No.569*. Consequently, through the drawing of Annexure P-9, an order of remand was made, upon, the Revenue Officer-cum-Consolidation Officer hence to make decision afresh on the *lis* concerned.

3. Even the afore assigned reason in Annexure P-9, by the authority concerned, to dispel the efficacy and vigor of the barring rule of estoppel against the institution of a third petition as, does visibly arise, in the wake of earlier conclusive orders of dismissal being made on the prior thereto two petitions, but is also completely rudderless. The reason being that, merely in the earlier motion there being no dispute in respect of *khasra No. 569*, rather also was not a valid reason, hence for overcoming the rule of estoppel. Contrarily, it is an ill-informed reason, to some how circumvent, the principle of estoppel created against the petitioner, to re-access the authorities concerned, with a third petition, despite the earlier petitions resulting in unassailed conclusive orders being made thereon. The reason is but comprised in the factum, that even if in the earlier motions, there was no legal battle amongst the litigants, with respect to

khasra No.569, and that the dispute in respect thereof, arose amongst them in the third round of litigation, and, that too belatedly, in the year 2014, that yet thereby too, there was an attraction against the third round of litigation, thus the rule of estoppel, inasmuch as, any omission of the petitioner to thus in the earlier two motions rather raise the plea regarding the disputed *khasra Number*, rather resulted in the petitioners being barred to, in the third belated motion, thus on the principle of estoppel engrafted in Order 2 Rule 2 CPC, rather raise the same therein.

4. In sequel the writ petition is allowed, and the impugned order dated 17.2.2021 (Annexure P-9) is set-aside and quashed.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 10, 2023

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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No