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

CWP-27167-2016

Date of decision:11.05.2023

JAGRAJ SINGH AND ANOTHER

...Petitioners

Versus

JOINT DEVELOPMENT COMMISSIONER (IRD) PUNJAB AND OTHERS

...Respondents

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

Present: Mr. N.P.S. Mann, Advocate for the petitioners.

Mr. Maninder Singh, DAG, Punjab

Mr. Aminder Singh, Advocate for respondent No.3.

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**SURESHWAR THAKUR, J. (ORAL)**

1. Maghar Singh and others instituted suit No.65/DDPO on 05.04.1995 before the learned Collector concerned. In the said case Gram Panchayat Badrukhan through its Sarpanch Darshan Singh, village Badrukhan, Tehsil and District Sangrur, became impleaded as party-respondent therein. The above suit was instituted under Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961, whereby the plaintiffs' claimed the rendition of a declaratory decree, thus for theirs becoming declared, as owners in possession of the suit khasra numbers. Through a decision made thereons, on 04.08.1997 (Annexure P-1), the title suit (supra), became decreed by the learned Collector concerned.

2. In pursuance to the drawing of the said decree of declaration by the learned Collector concerned, the updation of revenue records also occurred, thus on 28.01.1999, hence as becomes revealed by Annexure P-2. A perusal of

Annexure P-2 reveals that the plaintiffs in the suit (supra), were depicted in the column of ownership relating to the suit khasra numbers, thus as owners thereof. Subsequently, it so happened, that the plaintiffs in the title suit alienated, through the drawing of registered deeds of conveyance, thus the said lands in favour of the alienees concerned. Moreover, in pursuance to the alienations, as became made to the alienees concerned, from the alienors, who were the recipients of Annexure P-1, also the attestation of mutation(s) became recorded, and, besides became entered in the revenue records, but at the instance of the empowered Revenue Officer concerned.

3. Be that as it may, it appears that after an inordinate delay of 16 years happening since the passing of Annexure P-1, the Gram Panchayat Badrukhan raised a statutory appeal bearing No.182/2013, before the learned Appellate Authority concerned.

4. Since the above appeal was time barred, as such, through a separate application cast under Section 5 of the Limitation Act, the statutory appeal was explained to arise from sufficient, and, good cause, and, after accepting the said application, the learned Appellate Authority concerned, through the makings of Annexure P-10, thus allowed the Gram Panchayat's appeal (supra).

5. Today it is firmly stated at the bar, by the learned counsel for the petitioners, that the order, as, made on the application, as, cast under Section 5 of the Limitation Act rather has remained unchallenged. Therefore, the affirmative order, as, made on the application, cast under Section 5 of the Limitation Act, thus acquires binding, and, conclusive effect.

6. The learned Appellate Authority concerned, through the drawing of Annexure P-10 on 10.12.2015, after allowing the said statutory appeal, as raised before it by the Gram Panchayat concerned, and, which became directed against Annexure P-1 thus proceeded to, obviously set aside Annexure P-1.

7. The above drawing of Annexure P-10 has brought grievance to the alienees from the plaintiffs, whose title suit became initially decreed by the learned Collector concerned, through the drawing of Annexure P-1, but subsequently thereby the learned Appellate Authority concerned, made a reversal of the said declaratory decree, as became granted in favour of the alienors of the present petitioners.

8. The learned counsel for the petitioners has argued, that since there was no opportunity granted to the alienees concerned, and, to adduce evidence on the appositely raised plea, thus planked, upon the principle of ostensible ownership, engrafted in Section 41 of Transfer of Property Act, 1882, rather contemplating that the bonafide purchasers for value without notice, thus becoming purveyed a protective shield against onslaughts being directed, upon, the execution of registered deeds of conveyance, despite purportedly no valid title inhering in the alienee(s) concerned.

9. Therefore, he argues that since on the basis of Annexure P-2, as became drawn in pursuance to the then alive affirmative verdict, thus drawn on the alienors' title suit, and, especially when it then remained unchallenged, thereby the appearance(s) in the Annexure P-2, qua their alienor(s), being the valid title holder(s) of the petition lands, rather was a sufficient notice qua the alienors of the present petitioners, thus holding a good title over the petition lands, thereby bonafidely leading them to draw registered deeds of conveyance with their alienor(s), who were the successful plaintiff(s), rather through a declaration embodied in Annexure P-1.

10. He thus argues, that any imperfection of title, as emanates from the belated drawing of Annexure P-10, since the makings of Annexure P-1, and, Annexure P-2, yet does not erode the efficacy of above statutory privilege, which rather required its becoming applied, at the time of drawing(s) of the

registered deeds of conveyance, in their respective favours by the alienor(s), who but then became recorded in Annexure P-2, as valid title holders of the petition lands. However, he submits, that the absence(s) to either frame the relevant issue, and/or, to lead evidence on the relevant issue but arising from the above pleading, thus has led to substantial miscarriage of a justice, and, also has defeated the purpose of Section 41 of the Transfer of Property Act, 1882.

11. The above argument has merit, and, this Court for facilitating the above argument, and, also for doing substantial justice, proceeds to after quashing Annexure P-10, deems it fit, and, appropriate to make an order of remand, to the competent Appellate Authority concerned, to after restoring appeal No.182/2013 to its original number, thereafter in terms of the above pleadings as becomes initially cast, rather to strike an issue thereon, besides to subsequently rather permit present petitioners, to adduce their evidence thereon. However, an opportunity to lead rebuttal evidence shall also be granted to the Gram Panchayat concerned. After the above exercise of adductions of evidence by all the litigants, on the material issue(s) (supra), thus becomes completed, thereupon the competent Appellate Authority concerned, shall proceed to draw a fresh decision in accordance with law on appeal No.182/2013.

12. However, the decision on the said appeal shall be made positively within four months from today. Till the said decision is made by the competent Appellate Authority, thus in the larger interest of justice, this Court deems it fit, and, appropriate to order the parties to maintain status quo in respect of the petition lands.

13. Disposed of accordingly.

**(SURESHWAR THAKUR)**  
JUDGE

**(KULDEEP TIWARI)**  
JUDGE

**11.05.2023**

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**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:**

**Yes/No**