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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on: 30.04.2024
Pronounced on: 27.05.2024

1. CWP-4811-1996 (O & M)

LEKH RAJ & ORS.Petitioners

Versus

GRAM PANCHAYAT BANDHWARI AND ORS.Respondents

2. CWP-8812-1996

MALINI KHANNA & ORS.Petitioners

Versus

COMMISSIONER GURGAON DIVISION & ORS. ...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Argued by: Mr. Narender Hooda, Senior Advocate with
Mr. Sudhir Hooda, Advocate
Mr. Karanvir Hooda, Advocate
for petitioners No. 1 and 2 (in CWP-4811-1996).

Mr. Kanwaljit Singh, Senior Advocate with
Mr. K.S.Brar, Advocate
Mr. Vijay Pal, Advocate
Mr. Raghav Agnihotri, Advocate
for petitioner(s) No. 3,4 and 5 (in CWP-4811-1996).

Mr. Raj Kumar Gupta, Advocate
for the petitioner(s) (in CWP-8812-1996).

Mr. Kulwant Singh, Senior Advocate with
Mr. Vijay S. Kajla, Advocate
for respondents No. 1, 4 and 5 (in CWP-4811-1996) and
for respondent No. 3 (in CWP-8812-1996).

Mr. Chand Ram Olla, Advocate
for the applicants (in CM-5597-CWP-2014).

Mr. Devender S. Punia, Advocate
for the applicant (in CM-4817-CWP-2022).

Mr. Ankur Mittal, Addl. A.G., Haryana with

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Mr. P.P.Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J.

1. Since both the writ petition(s) (supra), involve common questions of law, and facts, thus, they are amenable to be decided through a common verdict.

2. For the sake of convenience, the facts of **CWP-4811-1996** are taken up for deciding the instant controversy.

3. Admittedly, Ram Singh and others filed on 18.03.1981, a declaratory suit in the Court of Assistant Collector, First Class, Gurgaon. In the said suit, Gram Panchayat Bandwadi was impleaded as defendant-respondent. At the stage (supra), in terms of the provisions as carried in Section 13-A of the Haryana Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961'), thus the thereunders instituted title suit in the year 1981, rather before the Assistant Collector concerned, was a well constituted suit, as then an able jurisdiction became vested in the Assistant Collector concerned, to entertain the said suit and to also make a lawful decision thereons.

4. Be that as it may, the said provision became repealed in the year 1992, thus through the promulgation of the Haryana Act No. 9 of 1992. The erstwhile thereunders conferred jurisdiction in the Assistant Collector concerned, thus to try and to make a lawful adjudication on the said suit, rather became snatched thus through the said made amendment. However, yet the said provision through the promulgation of the Haryana Act No. 9 of 1999, became re- inserted in the year 1999, but with

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conferment of jurisdiction rather in the Collector, to entertain and decide title suits.

5. Resultantly, prima facie those suits which became instituted in terms of Section 13-A of the 'Act of 1961' but prior to the coming into force of the Haryana Act No. 9 of 1992, whereby Section 13-A (supra) became omitted, were naturally well constituted title suits before the Assistant Collector and also thereovers valid adjudications, thus could be made by the Assistant Collector concerned.

6. The decision on the said title suit, as became preferred by the plaintiffs was however made on 30.03.1993 (Annexure P-1), whereby the Assistant Collector concerned, in view of the omission/repeal of Section 13-A in the 'Act of 1961', thus through promulgation of the Haryana Amending Act No. 9 of 1992, thus proceeded to declare qua the suit becoming rendered infructuous besides also non suited the plaintiffs.

7. The aggrieved from Annexure P-1, made an appeal thereagainst before the Appellate Authority/Collector concerned, who through Annexure P-2, proceeded to decree the plaintiffs suit.

8. The makings of Annexure P-2, led the aggrieved Gram Panchyat Bandwari, through its Sarpanch, to institute thereagainst a revision petition before the Revisional Court concerned. The Revisional Court through making Annexure P-3, upon the apposite revision petition, thus proceeded to make an order of remand of the *lis* to the Assistant Collector First Grade. The operative underlined part of the said order (Annexure P-3) is extracted hereinafter.

“5. *I have heard the arguments of learned Advocate for both the parties. I fully agree with the ruling of AIR*

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1994 SC Page 1069(B) produced by the learned Advocate that the case should be decided only according to law existing at that time. Further while abolishing the Section 13 A by Haryana Amendment Act No. 9 of 1992, also it has not been clarified as to how these cases, which are pending, should be decided, nor any such new section has been added. Therefore, this admission by the Collector was correct absolutely that decision of this case should be done according to Section 13-A. It was stated by the opposite party in their appeal filed in the Court of Collector that after admitting the appeal, the case should be remanded to subordinate court for deciding it according to law. But the Collector has instead doing so, decided the case himself after admitting the appeal and thereby the petitioners have been deprived from their right to appeal whereas according to earlier order dated 14.07.1992 of the Collector the case was to be decided by the Assistant Collector First Class after taking evidence of both the parties. Thus by admitting the suit of the opposite party, the law has been violated by the Collector, therefore admitting these revisions, I remand the case to Assistant Collector First Class with this direction that he should decide these cases according to earlier order dated 14.07.1992 of the Collector, Gurgaon within 30 days. Both the parties are instructed to provide full assistance to the Court for deciding the cases within the prescribed period. Both the parties should appear in his Court on 28.02.1996.....”

9. The makings of Annexure P-3, by the Revisional Court concerned, has led the aggrieved therefroms, to file the instant writ petition before this Court, as therebys the declaratory decree (Annexure P-2) rendered in their favour by the Collector, has rather suffered annulment.

10. It is contended that the decision recorded by the Collector (Annexure P-2) was a well made decision, as it was made in terms of

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conferment of jurisdiction in him thus to decide the title suit. The conferment of the said jurisdiction in the Collector concerned, is contended to occur through the promulgation of the Haryana Act No. 9 of 1999, whereby the earlier thereto deleted Section 13-A of the 'Act of 1961' became re-inserted, but whereunders the jurisdiction to try and decide the title suit, became conferred in the Collector. Resultantly thereby the making of Annexure P-2, is rather contended to be a well exercising jurisdiction thereovers.

11. It is also further contended that since at the stage of making of a decision on the title suit on 30.03.1993, as became preferred by the plaintiffs under Section 13-A, thus the said provision became deleted, thereby the decision made thereovers by the Assistant Collector (Annexure P-1), whereby he non suited the plaintiffs, thus on the ground that, in view of the deletion being made to Section 13-A, hence on the promulgation of the Haryana Amendment Act No. 9 of 1992, especially when then the suit was subjudice, thereby the civil suit becoming rendered infructuous.

12. The legal conundrum which requires to be adjudicated is detailed hereafter.

i) Whether the parameter for testing the valid entertainments and assumptions of jurisdiction(s) on title suits thus by the Assistant Collector concerned, is the date, when the provision whereunders a title suit becomes laid before the Assistant Collector concerned, was then in existence or whether when during the pendency of the title suit, the said provision became deleted, whether thereby the earlier assumed jurisdiction thereovers by the Assistant Collector

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also is to be construed to suffer erosion, so that thereby the Assistant Collector becomes barred to make an effective adjudication thereovers.

ii) Whether the decision, as made by the Assistant Collector on 30.03.1993, especially when then the apposite statutory provision became repealed, through the promulgation of Haryana Amending Act No. 9 of 1992, thus could divest, the parties to the *lis* of their rights to make an appeal thereagainst, given the said right becoming specifically conferred in them, through the erstwhile unrepealed provision. Moreso, when on the date of filing of the title suit, the unrepealed provision was on the statue book.

iii) Whether the date of generation of the *lis*, thus is the relevant touchstone, for the makings of valid adjudication thereovers and also for the conferment of a right to appeal thereagainst, to the aggrieved concerned.

iv) Whether, if the above questions of law are answered in favour of the plaintiffs, whether thereby the Collector after setting aside Annexure P-1, thus was required to be making a remand of the *lis* to the Assistant Collector.

v) Whether the Collector erred in exercising the original jurisdiction on the title suit, thus on an erroneous assumption that then in terms of the promulgation of the Haryana Amendment Act No. 9 of 1999, thus the jurisdiction to entertain and decide the title suit rather became conferred upon the Collector.

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vi) Whether when otherwise the robust touchstone for construing the validity of assumptions of jurisdiction or the makings of adjudications, thus on the relevant *lis*, becomes well grooved in the date of initiation or generation of the *lis*, thereupons upon the said becoming breached, qua the consequent effect thereof.

13. Having set forth herein above, the facts relevant for making answers to the above substantial questions of law, the expostulations of law, as carried in the judgment made by the Hon'ble Apex Court, in case titled as '***Rajender Bansal and Others Vs. Bhuru (Dead) through LRs. and Others, reported in (2017) 4 SCC 202***', do requires, theirs becoming extracted. The apposite underlined expostulations as relevant for answering the above formulated questions of law become carried in paragraphs No. 18 and 19 thereof. The relevant underlined portions of the said paragraphs as relate to the instant *lis* are extracted hereinafter.

“ 18. From the aforesaid discussion in Atma Ram Mittal, Vineet Kumar, Ram Saroop Rai, Ramesh Chandra and Shri Kishan alias Krishna Kumar cases, the apparent principles which can be culled out, forming the ratio decidendi of those cases, are as under:

i) Rights of the parties stand crystallised on the date of the institution of the suit and, therefore, the law applicable on the date of filing of the suit will continue to apply until suit is disposed of or adjudicated.

ii) xxxxxx

iii) xxxxx.

iv) xxxxx.

19. In laying down the aforesaid dicta, the Court also took support of two well known maxims viz. (i) ubi jus ibi

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remedium which lays down the principle that where there is a right there is a remedy and it can be excluded only by substantial legislation expressly extinguishing the said right AND (ii) actus curiae neminem gravabit, which means that nobody should be allowed to suffer because of the act of the Court. Here the act attributed is delay in disposal of the case. Additionally, the Court took aid of purposive interpretation i.e. legislative intent in not making Rent Act applicable to new constructions for a period of ten years.

14. Moreover, the said view has also been reiterated by the Hon'ble Apex Court in a judgment rendered in case titled as ***'Videocon International Ltd. Vs. Securities and Exchange Board of India'*** to which ***Civil Appeal No. 117 of 2005*** has been assigned, wherein, it has been expostulated in paragraph No. 15 thereof, paragraph whereof, is extracted hereinafter, that the right of appeal is a vested right, and such a right to enter the superior Court accrues to the litigant and exists, as on and from the date the lis commences, and although it may be actually exercised, when the adverse judgment is pronounced but such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.

“15. Eventually, the above proposition of law, according to learned counsel, came to be crystallized by the Constitution Bench judgment in Garikapati Veeraya v. N. Subbiah Choudhary, AIR 1957 SC 540, wherein this Court recorded its conclusions in paragraph 23, which is being extracted hereunder:-

"23. From the decisions cited above the following principle clearly emerge :

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(i) That the legal pursuit of a remedy, suit, appeal and second appeal are really but steps in a series of proceedings all connected by an intrinsic unity and are to be regarded as one legal proceeding.

(ii) The right of appeal is not a mere matter of procedure but is a substantive right.

(iii) The institution of the suit carries with it the implication that all rights of appeal then in force are preserved to the parties there to till the rest of the career of the suit.

(iv) The right of appeal is a vested right and such a right to enter the superior Court accrues to the litigant and exists as on and from the date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.

(v) This vested right of appeal can be taken away only by a subsequent enactment, if it so provides expressly or by necessary intendment and not otherwise."

15. Nonetheless, the counsel appearing for the petitioners contended that the order passed by the Collector (Annexure P-2), thus is in terms of the verdict rendered by the Division Bench of this Court in case bearing No. **CWP No. 20385 of 2011** titled as **Orion Infrastructure Ltd. Vs. Commissioner, Gurgaon Division, Gurgaon and Others, reported in 2012 (2) L.A.R. 337**, wherein, it has been expostulated, that with the deletion of Section 13-A of the Haryana Act No. 9 of 1992, whereby the jurisdiction of the Assistant Collector to decide title suits instituted under Section 13-A became snatched and with the subsequent thereto insertion of new Section 13-A in the 'Act of 1961' through the promulgation of the

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invested in the Collector concerned, thereupon, the Assistant Collector was required to transfer the cases to Collector by taking help of Order 7 Rule 10 A of the CPC. The relevant underlined portion of the apposite paragraph of the judgment (supra) is extracted hereinafter.

*“34. In the present case also, purpose of amendment in Section 13-A of the Act of 1961 was that all title suits should be decided by the Collector, having jurisdiction in the area, and not by the Assistant Collector Ist Grade. By the said amendment, a right to file a title suit was given to any person or in the case of a Panchayat, either the Panchayat or its Gram Sachiv, the concerned Block Development and Panchayat Officer, Social Education and Panchayat Officer or any other officer duly authorised by the State Government in this behalf, claiming right, title or interest in any land or other immovable property, vested or deemed to have vested in the Panchayat under this Act, for adjudication of the dispute whether such land or other immovable property is shamilat-deh or not or whether any land or other immovable property or any right, title or interest therein vests or does not vest in Panchayat under this Act, in the court of the Collector, having jurisdiction in the area. **In our opinion, if, after insertion of new Section 13- A, the Assistant Collector Ist Grade is permitted to continue with the pending title suit and decide the same, then the very purpose of the amendment would be defeated. Though in the new provision of Section 13A, no provision was made for transfer of the pending cases to the Court of the Collector, having jurisdiction in the area, but under sub-section (2) of Section 13-A of the Act of 1961, a specific provision has been made that the procedure for deciding the suits under sub-section (1) shall be the same as laid down in the Code of Civil Procedure. Thus, by taking the help of Order 7 Rule 10-A of the Code of Civil Procedure, the Assistant Collector***

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Ist Grade could have transferred the pending title suits to the court of competent jurisdiction, i.e. the Collector, having jurisdiction in the area, instead of deciding the same himself. But, in the instant case, the Assistant Collector Ist Grade has passed the decree himself on 21.11.2000, when he was having no jurisdiction to decide the title suits. Therefore, in our opinion, the decree dated 21.11.2000 passed by the Assistant Collector Ist Grade was wholly without jurisdiction and a nullity...”

16. For the reasons to be assigned hereinafter, the order passed by the Collector (Annexure P-2), is legally infirm, thus on the ground that it is in complete dis-concurrence with the verdicts rendered by the Hon'ble Apex Court in case titled as '**Rajender Bansal and Others Vs. Bhuru (supra)**' and in case titled as '**Videocon International Ltd. Vs. Securities and Exchange Board of India' (supra)**', wherein, the above stated underlined expostulations of law are carried.

17. Moreover, for the reasons to be assigned hereinafter, the verdict rendered by the Division Bench of this Court in case titled as '**Orion Infrastructure Ltd. Vs. Commissioner, Gurgaon Division, Gurgaon (supra)**', is per incuriam the expostulations of law (supra) as borne in the judgments (supra) rendered by the Hon'ble Apex Court. Resultantly this Court would be making adherence to the underlined expostulations of law, as become spoken in the verdicts pronounced by the Hon'ble Apex Court, whereas, it would be departing from the expostulations of law as made by the Division Bench of this Court in case titled as '**Orion Infrastructure Ltd. Vs. Commissioner, Gurgaon Division, Gurgaon (supra)**'.

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18. The reason for making the above conclusion becomes premised on :-

a) The date of institution of the *lis*, is the judicially well accepted date, both for the well assumptions of jurisdiction over the apposite *lis*, and also for the subsequent thereto able assumptions of appellate and revisional jurisdiction(s). The said date of generation of the *lis*, but obviously regulates besides confers plenitude of competent jurisdictions in the statutory authority(ies) concerned, wherebefore whom the said *lis* is laid. Therefore, irrespective of the repealings being made of the apposite statutory provision, thus whereunders a title suit was laid before the Assistant Collector concerned, yet if on the date of the *lis*, being constituted before the Assistant Collector concerned, thus the apposite provision rather well enabling the Assistant Collector concerned, to both entertain and to adjudicate the *lis*, but was in existence. Therefore, but obviously the Assistant Collector, became conferred with an able jurisdiction to make an able adjudication thereovers.

b) Conspicuously when the suit was laid on 18.03.1981, before the Assistant Collector concerned and when uncontrovertedly on the said date, Section 13-A of the 'Act of 1961' whereunders the suit became laid, but was on the statute book, thereby jurisdiction became vested in the Assistant Collector, to effectively decide the title suit. Moreover, the further therefroms appellate as well as revisional proceedings, also became available to become ably resorted by the aggrieved from the decision made by the Assistant Collector on the title suit. In addition, the preservation of the remedy(ies) to the aggrieved, from the decision made by the Assistant Collector, on a title suit cast under

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Section 13-A of the 'Act of 1961', was irrespective of the factum, that the apposite statutory provisions rather suffering repealment, thus post the institution of the *lis*. However, even if the said situation prevailed when the revision petition was laid and also became decided, rather would not beget the ill consequence qua therebys, the exercisings of appellate or revisional jurisdiction(s) respectively over the statutory appeals or over the revision petition(s), rather being ill exercised jurisdictions thereovers.

c) In sequel, since the *lis*/title suit cast under Section 13-A of the 'Act of 1961', became instituted on 18.03.1981, thus on a date when the said provision was in existence. Moreover, when therebys the said title suit was well instituted before the then empowered Assistant Collector concerned. Resultantly, the Assistant Collector concerned, was bestowed with an able jurisdiction to also make an effective decision thereovers.

d) Therefore, though during the pendency of the suit, the said provision became repealed, yet the said repealing would not at all affect the legality of the decision passed by the Assistant Collector concerned, rather upon the merits of the title suit, especially when the title suit, as such continued to be an effectively laid suit, even upto the makings of a decision thereovers by the Assistant Collector concerned, but reiteratedly irrespective of the relevant statutory provision being then neither in existence nor in vogue. Moreover, therebys since the appeal as well as the revision petition, thus are a continuation of the suit, besides when the date of institution of the suit, rather is the relevant robust touchstone, thus for deciding qua whether the decision made thereovers rather is well made. Resultantly therebys the decision as made on the title

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title suit preferred by the plaintiffs, as infructuous and also non suited the plaintiffs, thus, on the ground that at that stage, there was repealing/abolishing of the provision (supra), through the Amending Act No. 9 of 1992, but was an inapt conclusion and was made by him in departure of the underlined expostulations of law (supra), rendered by the Hon'ble Apex Court.

e) Importantly, also since the above extracted expostulations of law, clearly indicate that *the right of appeal is a vested right and such a right to enter the superior Court accrues to the litigant and exists as on and from the date the lis commences and although it may be actually exercised when the adverse judgment is pronounced such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal.*

f) Since at the time of the institution of suit, the statutory provision which became subsequently repealed, rather was in force and whereunders a right but obviously was vested in the plaintiffs, to thereunders institute a title suit, thus before the Assistant Collector concerned. Resultantly, than the Assistant Collector concerned, making Annexure P-1, over the title suit, wherebys on the causings of deletion of Section 13-A of the 'Act of 1961', he thus declared the title suit to become rendered infructuous, rather contrarily was required to be passing an effective decision on the merits of the *lis*. Moreover, the raisings thereagainst respectively before the Collector and before the Commissioner, thus appeals and revision petition(s) rather were ably

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made thereovers, thus would not suffer from any vice of any jurisdictional incompetence, thus on the purported premise that the said made decisions were so made in an era, when the provision whereunders a title suit became cast, became subsequently repealed or was not in existence or became repealed subjudice the title suit.

19. In adhering to the said underlined expostulations of law, and, also when the said expostulations of law become departed from and that too, without any cogent distinguishments therefroms, being made by the Division Bench of this Court, in rendering a verdict in '**Orion Infrastructure Ltd. Vs. Commissioner, Gurgaon Division, Gurgaon.** Resultantly, this Court accepts the view taken by the Hon'ble Apex Court in verdicts made by the Hon'ble Apex Court in case titled as '**Rajender Bansal and Others Vs. Bhuru (supra)** and in case titled as '**Videocon International Ltd. Vs. Securities and Exchange Board of India' (supra).** Therefore, this Court declare thus infirm the contra thereto view taken by the Division Bench of this Court, thus on the ground that the same is per incuriam the underlined expostulations of law as carried in the verdicts (supra) rendered by the Hon'ble Apex Court.

20. Additionally, if the title suit became preferred under a statutory provision which was then in existence, but if post the filing of the title suit, thus an amendment occurred, whereby the statutory provision whereunder the title suit became instituted rather became deleted, but yet there was no jurisdiction in the Assistant Collector concerned, to either reject or to return the plaint for its being filed before the civil Court of competent jurisdiction. The reason for drawing the above conclusion

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(supra) rendered by the Division Bench of this Court, thereby this Court would be making ill departures from the underlined expostulations of law, as made by the Apex Court, in verdicts (supra). Moreover, thereby this Court would be taking a view completely antithetical to the view (supra) as expostulated by the Apex Court in verdicts (supra), especially when thereby the suit and further therefroms appellate and revisional proceedings, thus become well domained within the frontiers of the robust touchstone, that the date of institution of the title suit, rather is the ablest date, for not only empowering the Assistant Collector concerned to entertain the suit but also for empowering him to make a valid adjudication thereovers, but irrespective of during the pendency of the suit, the apposite deletion taking place, besides the said robust touchstone also regulating further therefroms raisings of appeal(s) and revisional proceedings, at the instance of the aggrieved concerned.

21. Reiteratedly, if merely on the basis of the relevant statutory provision becoming deleted but during subjudice the title suit, thus the further therefroms appeal and revisional remedies as available to become recoured by the aggrieved from the decision of the Assistant Collector made on the title suit, rather would become untenably snatched and whereby there would be conflict with underlined expostulations of law declared in verdict (supra) rendered by the Apex Court.

22. Furthermore, if the view propounded is accepted, then in the wake of a statutory bar against the exercising of jurisdiction by the civil Courts concerned, in respect of *shamlat deh* lands, thus becoming encapsulated in Section 13 of the 'Act of 1961', statutory provision

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therebys the petitioners-plaintiffs being rendered remedyless, especially in the interregnum, since the happening of repealing of the apposite statutory provision during the pendency of the suit, and, the promulgation of the Haryana Act No. 9 of 1999, whereby the jurisdiction to try the title suit became conferred in the Collector. Resultantly for avoiding the above ill situation, therebys the underlined expostulations of law made by the Apex Court in verdicts (supra), do thus confer jurisdiction upon the Assistant Collector to try the suit on the ground, but on the hereafter counts :

a) that it was laid before him in terms of a statutory provision which was then in existence.

b) on the count that the deletion of the said provision is insignificant and does not yet rob the jurisdiction of the Assistant Collector to make an effective decision on the merits of the *lis*.

c) thirdly, on the score that the appeal and revisional proceedings but are a continuation of the suit, thus therebys the said remedies are required to be preserved vis-a-vis the aggrieved from the decision made on the title suit by the Assistant Collector.

[13. Bar of Jurisdiction in civil courts.-- No civil courts shall have jurisdiction-

(a) to entertain or adjudicate upon any question, whether

(i) any land or other immovable property is or is not shamilat deh ;

(ii) any land or other immovable property or any right, title or interest in such land or other immovable property vests or does not vests in a Panchayat under this Act.

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*(b) in respect of any matter which any revenue court, officer or authority is empowered by or under this Act to determine ;
or*

(c) to question the legality of any action taken or matter decided by any revenue Court, officer or authority empowered to do so under this Act]

23. Therefore, reiteratedly, to ensure that the said bar does not make any ill attractions against the petitioners-plaintiffs, besides to obviate the ill situation of the petitioners being rendered remedyless, therebys too, the opinion expressed by the Division Bench of this Court in a judgment rendered in ***Orion Infrastructure Ltd (supra)***, is therebys required to be declared per incuriam, the expostulations of law (supra), as made by the Hon'ble Apex Court in verdicts (supra), besides is required to become discountenanced.

24. Conspicuously also it appears that the Collector concerned, in terms of the Haryana Amending Act No. 9 of 1999, whereunders jurisdiction to try the suit became conferred upon him, rather proceeded to exercise original jurisdiction on the title suit. The said exercisings of original jurisdiction, which resulted in the drawing of Annexure P-2, is also a grossly made departure, from the underlined expostulations of law, as carried in judgments (supra) rendered by the Apex Court, as therebys he has snatched the remedy of an appeal against Annexure P-1, which was to be treated as such and was to be decided as such. Reiteratedly, he in terms of the expostulations of law (supra) as made by the Apex Court, rather was required to be exercising, thus appellate jurisdiction over Annexure P-1, besides was required to be also accepting the relevant appeal. Moreover,

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his making a re-adjudication thereovers. The above made gross departures by the Collector concerned, through his making Annexure P-2, rather is vitiated with a vice of therebys breach being done to the underlined expostulations of law (supra), carried in verdicts (supra) as made by the Hon'ble Apex Court, as therebys the remedy of appeal, has been frustrated, despite the appeal being a continuation of the *lis*, besides irrespective of the relevant provision being repealed subjudice the title suit, it yet becoming expostulated in verdicts (supra), that yet the right of appeal cannot be snatched, from the aggrieved appellant, from a decision made by the Assistant Collector, on a suit which was well laid before the latter, especially when on the date of the institution of the *lis*, he had jurisdiction to both entertain the *lis* and to make a effective decision thereovers. Therefore, the makings of Annexure P-3 by the Revisional Authority concerned, is in tandem and in alignment with the opinion (supra) expressed by the Hon'ble Apex Court in the judgments (supra).

25. The substantial questions of law are accordingly answered.

Final Order of this Court.

26. In aftermath, this Court finds no merit in the writ petition(s) and is constrained to dismiss both the writ petition(s).

27. The impugned order (Annexure P-3), as made by the Revisional Authority is maintained and affirmed, besides Annexure P-1 and P-2, are quashed and set aside.

28. The Assistant Collector concerned, is directed to restore the *lis*' to their original numbers and in terms of directions made in Annexure P-3, make a valid speaking decision on the remanded *lis* within a period of

four months from today but after hearing all affected persons concerned.

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29. Since the main case(s) itself have been decided, thus all the pending application(s), if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

27.05.2024

kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No