IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.509 of 1989 (O&M)
and other connected cases
Reserved on: 20.04.2024
Date of Order:23.05.2024

Amarnath **.Appellant**

Versus

Dal Singh **..Respondent**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Kulvir Narwal, Advocate for the appellant.**

Mr. S.S.Dinarpur, Advocate and Mr. Rohit Singh, Advocate for respondent no.1.

ANIL KSHETARPAL, J

1. With the consent of the learned counsel representing the parties, three connected cases, namely, two regular second appeals and a cross-objection shall stand disposed of by this common order.

CM-2327-C-2024

2. This is an application under Section 5 of the Limitation Act, 1963, read with Section 151 CPC to seek condonation of delay of 1860 days in filing the cross-objections.

3. It has been stated by the cross-objectors that in the year 2017, they received notice after admission of the appeal for regular hearing. At that time, their counsel advised against necessity of filing the cross-objections in view of provisions under Order 41 Rule 33 of the Code of Civil Procedure, 1908. However, on reconsideration of the matter, the cross-objections have been filed along with an application for condonation of delay.

4. Per contra, reply has been filed by the appellant claiming that there is a delay of 34 years as the appeal was filed on 19.01.1989. Moreover, the rights have accrued in favour of the appellant which should not be whittled away by condoning the delay. It has been asserted that the name of counsel who advised them against filing of cross-objections has not been disclosed.

5. This court has considered the submissions and perused the application for condonation of delay as well as its reply.

6. In the considered view of the Court, the delay deserves to be condoned on the following grounds:-

(i) The learned counsel representing the cross-objector has specifically stated that in the year 2017, he was engaged and he advised against filing cross-objections on the ground that necessary relief shall be granted under Order 41 Rule 33 CPC. Hence, it is not correct on the part of the appellant to claim that the name of the counsel has not been disclosed.

(ii) Connected regular second appeals are pending. The cross-objections are in the aforesaid appeals only. Hence, in view of the judgment passed by the Supreme Court in ***Collector, Land Acquisition, Anantnag and others vs. Mst. Katiji and others, AIR 1987 SC 1351***, ***Imrat Lal and others vs. Land Acquisition Collector and others (SC) 2015(2) RCR (Civil) 437, Dhiraj Singh (Deceased) through LRs vs. Haryana State and others, 2015(2) RCR(civil)507*** *and* ***Jethu Ram(Deceased) through Lrs vs. Union of India and others, 2016(4) Law Herald, 316*** the delay in filing the appeal is condoned.

(iii) The appellant is not correct in contending that the delay in filing the cross-objection is of 34 years. It may be noted here that the cross-objectors have appeared after admission of the appeal in the year 2017 and the period of delay has been calculated from that date. In any case, even if the delay is of 34 years, still the cross appeals are pending. Hence, the cross-objectors are entitled to condonation of delay.

7. With the consent of the learned counsel representing the parties, taken on Board for final disposal.

MAIN

1. ***BRIEF FACTS AND INTRODUCTION***

1.1 Smt. Bhagti Devi and defendant nos.1 to 5, 8 and 10 were owner of half share of land comprised in khewat no.67, whereas Sh. Devi Chand was owner of the remaining part of the khewat. Similarly, the land comprised in khewat no.248 as per jamabandi for the year 1966-67, belongs to the aforesaid persons as 'Dholidars' in the same share. 'Dholidar' is a special grant given to the persons who are working for the benefit of the community like working in a temple, mosque, shrine or at any other religious place or for doing some charity work. Ordinarily, such 'Dholidars' enjoy possession and usufructuary of the land given to them without payment in lieu of the services rendered by them to the public at large or particular community. However, such grant is revokable if they stop rendering the service. The State of Haryana has passed the Haryana Dholidar, Butimar, Bhondedar and Muqararidar(Vesting of Proprietary Rights) Act, 2010 (hereinafter referred to as 'the 2010 Act') while vesting the ownership on such licencees. It has been recognized in the Act that such persons have become owner by virtue of the aforesaid Act.

1.2 The aforesaid persons, namely, Smt. Bhagti Devi etc. sold land measuring 19 kanals and 19 marlas in favour of Sh. Dal Singh, the plaintiff (cross-objector) in Civil Suit No.107 of 10.09.1984, vide registered sale deed dated 25.05.1969 which was registered on 28.05.1969. Smt. Bhagti Devi etc. sold 13 kanals and 19 marlas land out of the land comprised in khewat no.67 which was owned by them, whereas 6 kanals of 'Dholi' land was sold from the land comprised in khewat no.248. Pursuant to the aforesaid sale deed, Sh. Dal Singh was put in possession of land comprised in Rect. No.41, Khasra Nos.16, 24 and 25. However, the entry in the revenue record was not changed by the revenue authorities, which forced Sh. Dal Singh to file the suit for grant of decree of declaration that he is entitled to get his name recorded in the revenue record.

1.3 Sh. Amar Nath, one of the vendor, filed civil suit no.609 of 1982, on 29.11.1982, claiming that he never executed sale deed dated 25.05.1969 and the same is invalid and void ab initio. He also claimed that the sale deed qua the 'Dholi' land is also not permissible and Smt. Bhagti Devi etc. have sold more than their share.

1.4 Sh. Dal Singh while contesting the suit claiming that the suit filed by Sh. Amar Nath was filed beyond the prescribed period of limitation, hence liable to be dismissed on that ground itself. It was also claimed that Sh. Dal Singh is owner in possession of land measuring 19 kanals and 19 marlas in terms of sale deed dated 25.05.1969.

1.5 Both the suits were consolidated on 25.09.1982 and the following consolidated issues were framed:-

> *"1. Whether Dal Singh plaintiff of the main suit is co-owner to the extent of 279/4157 share in the land under khewat no.67/85 vide jamabndi of the year 1966-67 and of khewat no.64 vide jamabandi for the year 1976-77 and*

also a co-owner to the extent of 120/1445 share in the land under khewat no.248/1445 share in the land under khewat no.248/322 of jamabandi of the year 1966-67 and khewat no.257 of jamabandi for the year 1976-77 as alleged, if so, to what effect OPP (Main suit)

2. *Whether the sale of the land comprised in khewat no.248 according to the jamabandi for the year 1966-67 was Dholi land? If so, whether its sale is void abinitio?OPD (Main suit).*
3. *If issue no.2 is not proved, whether the sale in excess of the share of the vendor is not binding upon the defendant of the main suit?OPD (Main suit)*
4. *Whether the main suit is not maintainable?OPD*
5. *Whether the connected suit is not properly valued for the purpose of court fee and jurisdiction?OPD (connected case)*
6. *Whether plaintiff of the connected suit has no locus standi to file the suit on the ground that he himself was a party to the sale ?OPD (connected case)*
7. *Whether connected suit is time barred?OPD connected suit.*
8. *Relief."*

1.6 The trial court partly decreed the suit filed by Sh. Dal Singh to the extent that he is owner of 1/4th share of the land comprised in khewat no.67 and khewat no.64 as per jamabandi for the year 1966-67, whereas the suit filed by Sh. Amar Nath was dismissed. As many as three appeals were filed, two by Sh. Amar Nath, whereas one was filed by Sh. Dal Singh. All the three appeals were dismissed by the learned Additional District Judge vide judgment dated 04.10.1988. Originally, two regular second appeals I.e. 509 and 510 of 1989 were filed by Sh. Amar Nath which were admitted for regular hearing.

1.7 In the year 2011, the learned counsel representing the appellant proposed the following substantial questions of law:-

> *"i) Whether the Dholidar has a right to sell the Dholi land?*
>
> *ii) Whether the two civil suits one filed by Amar Nath appellant and another filed by respondent Dal Singh could be consolidated?*
>
> *iii) Whether the sale by the appellant and Smt. Bhagti and Smt. Champa was in excess on their share?*
>
> *vii) Whether material evidence was mis-interpreted and also ignored from consideration?*
>
> *2. That the aforesaid substantial questions of law could not be framed earlier as at the time of filing the appeal, it was not mandatory to frame such questions."*

1.8 When the case was taken up for hearing on 28.02.2024, the following order was recorded:-

> *"1. In these two connected appeals, arguments have been heard at length.*
>
> *2. Sh. Amarnath, Smt. Bhagti Devi and Smt. Champa after having sold 19 kanal and 19 marlas land by a registered sale deed dated 25.05.1969, which was registered on 28.05.1969, filed a suit for possession challenging the correctness of the sale deed. Out of 19 kanal and 19 marlas land, which was subject matter of the registered sale deed, 13 kanal and 19 marlas land comprised in Khewat No.67, was their ownership land, whereas, 6 kanal land out of Khewat No.246 was 'dholi' land.*
>
> *3. On the other hand, Sh. Dal Singh-respondent filed a suit for declaration that he is owner in possession by virtue of sale deed dated 25.05.1969.*
>
> *4. On appreciation of evidence, both the Courts have found that the sale of 6 kanal land, which was 'dholi' in*

> *the hands of Sh. Amarnath, Smt. Bhagti Devi and Smt. Champa is void. However, Sh. Amarnath's suit for possession was dismissed by both the Courts below.*
>
> *5. On the other hand, the suit filed by Sh. Dal Singh has been partly decreed and he has been held owner to the extent of 13 kanal and 19 marlas land while upholding the sale deed. 6. In these two cases, the following issues would require adjudication:-*
>
> *i. Whether the sale of land by 'dholidars' is void ab initio even in absence of any stipulation restricting its transfer by the 'dholidars'?*
>
> *ii. Whether Sh. Dal Singh without filing any appeal or cross-objection can pray reversal of that part of decree, which has gone against him?*
>
> *7. In fact on the first issue, this Court in **Rajwati and another Vs. Sukhi and others, 2018(3) PLR 137** and **Chhaju Ram and others Vs. Gur Dyal and others, 2024 (1) RCR (Civil) 106**, has taken a particular view.*
>
> *8. List on 01.03.2024, in the urgent list.*
>
> *9. A photocopy of this order be placed on the file of the other connected case."*

1.9 In the meantime, cross-objections were filed by the learned counsel representing legal representatives of Sh. Dal Singh.

2. ***DISCUSSION AND ANALYSES***

2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the requisitioned record.

2.2 As far as the sale deed executed by Smt. Bhagti Devi, Sh. Amar Nath and Smt. Champa with respect to land measuring 13 kanals and 19 marlas at the relevant time comprised in khewat no.67 is concerned as per jamabandi for the year 1967-68, there is hardly any ground to interfere with the concurrent findings of fact arrived at by the courts below. Both the courts have concurrently held that Smt. Bhagti Devi, Smt. Champa and Sh. Amar Nath executed the sale deed on 25.05.1969 which was registered on 28.05.1969, on receipt of entire sale consideration and there is no ground to doubt its correctness.

2.3 Now the court proceeds to analyze the arguments of the learned counsel representing the parties with respect to alienation of 'Dholi' land. In fact, this court in ***Rajwati and another Vs. Sukhi and others, 2018(3) PLR 137***, has elaborately discussed the issue in the context of lease deed of 'Dholi' land for a period of 99 years by the 'Dholidar'. The aforesaid discussion covers the question no.(i) as noticed in the order dated 28.02.2024. Para 11 of the judgment reads as under:-

> *"Now the stage is set to consider the questions of law:-*
>
> ***QUESTION NO.(I) & (II)***
>
> ***(i) Whether a person who subsequently acquires absolute title can be permitted to challenge the lease deed for a period of 99 years executed by him on the ground that on the day, he executed the lease deed, he was not competent to execute?***
>
> ***(ii) Whether an executant of the document/deed/instrument can be permitted to challenge the same on the ground that he was not competent to execute?***
>
> *It is not in dispute that dholidars had executed registered lease deed for a period of 99 years. Plaintiffs are representatives of the aforesaid dholidars who subsequently acquired title pursuant to an act enacted by Haryana Government in the year 2010. In the*

considered opinion of this court, plaintiffs who have stepped into the shoes of lessor, could not challenge the registered lease deed executed by their predecessors on the ground that the then aforesaid dholidars were not competent to execute the registered lease deed. Section 115 of the Evidence Act would estop the plaintiffs to challenge the lease deed.

A suit for declaration on their behalf would be barred by principles of estoppels. Section 115 of the Evidence Act is extracted as under:.-

> ***115. Estoppel*** *- When one person has by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing. Illustration A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it. The land afterwards, become the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want to title.*

In view of the aforesaid the suit filed by the plaintiffs was not maintainable.

Still further this issue can be examined from another angle. Transfer by an unauthorised person who subsequently acquires interest in the property, is liable to honour the transfer and cannot be permitted to subsequently say that on the date he transferred the interest, he was not entitled to transfer. Reference in this regard can be made to Section 43 of the Transfer of Property Act. The principle which emerge from careful *reading of Section 43 of the Transfer of Property Act(extracted as under) is that if any transfer is made by an unauthorised person, who subsequently acquire interest, the transfer of interest shall continue to operate at the option of the transferee. This principle has a direct connection with rule of estoppel as envisaged under Section 115 of the Evidence Act. Section 43 of the Transfer of Property Act is extracted as under:-*

> ***43. Transfer by unauthorized person who subsequently acquires interest in property transferred.-***
>
> *Where a person fraudulently or erroneously represents that he is authorized to transfer certain immovable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists. Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.*

Still further this issue can also be examined in the context of Section 13 of the Specific Relief Act, 1963 which deals with rights of purchasers or lessee against persons with no title or imperfect title. It is provided that if a person contracts to sell or give on lease certain immovable properties having no title or an imperfect title then when the vendors or the lesssor subsequently acquires interest in the property, the purchaser or the lessee may compel him to make good the contract out of such interest. Section 13 of the Specific Relief Act, 1963 is extracted as under:-

> ***13.Rights of purchaser or lessee against person with no title or imperfect title.—***

> *(1) Where a person contracts to sell or let certain immovable property having no title or only an imperfect title, the purchaser or lessee (subject to the other provisions of this Chapter), has the following rights, namely:—*
>
> > *(a) if the vendor or lessor has subsequently to the contract acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;*
> >
> > *(b) where the concurrence of other person is necessary for validating the title, and they are bound to concur at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such concurrence, and when a conveyance by other persons is necessary to validate the title and they are bound to convey at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such conveyance;*
> >
> > *(c) where the vendor professes to sell unencumbered property, but the property is mortgaged for an amount not exceeding the purchase money and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a valid discharge, and, where necessary, also a conveyance from the mortgagee;*
> >
> > *(d) where the vendor or lessor sues for specific performance of the contract and the suit is dismissed on the ground of his want*

of title or imperfect title, the defendant has a right to a return of his deposit, if any, with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest, if any, of the vendor or lesser in the property which is the subject -matter of the contract.

(2) The provisions of sub-section (1) shall also apply, as far as may be, to contracts for the sale or hire of movable property.

A commutative reading of the aforesaid 3 statutory provisions, it is clear that a person who was having imperfect title or no titlte, subsequently acquires any title, right or interest, shall remain bound by the contract he entered into. A person who has represented to the other and have executed the instrument cannot subsequently turn around and claim setting aside of the same on the ground that he had no title or a imperfect title.

In view of the aforesaid discussion, question no.(i) and (ii) are answered in favour of the cross-objector-defendants."

2.4 The aforesaid judgment has also been followed in ***Chhaju Ram and others Vs. Gur Dyal and others, 2024 (1) RCR (Civil) 106***. In this case, the court also examined the effect of Section 3 of the 2010 Act. In para 15 and 16, of the aforesaid judgment read as under:-

"15. However, now there is a significant development in the law and regulations governing lease. The State of Haryana has notified the '2010 Act'. As per Section 3 which starts from non obstante provision, it is embodied that the Dholidars who are in possession of land for a period of more than 20 years on the appointed day become owner and the rights of the proprietary body or

proprietor stand extinguished. The learned counsel representing the respondents submitted that in this case the plaintiff has not filed any application under the aforesaid Act. However, the aforesaid argument has no substance because as per Section 4 of the 2010 Act, it is for the landowner to apply for the compensation within the period prescribed. In this regard, it will be appropriate to take note of Section 3 of the '2010 Act', which is extracted as under:-

> *3. Notwithstanding anything to the contrary contained in any other law, custom, usage or deed for the time being in force, on and from the appointed day-*
>
> > *(a) all rights, title and interest including the contingent interest, if any, recognized by any law, custom, usage or deed for the time being in force with respect to the land and vested in the landowner shall be extinguished, and such rights, title and interest shall vest in the Dohlidar, Butimar, Bhondedar or Muqararidar or any other similar class or category of persons, which the State Government has notified in the official Gazette, under whose occupation the land is, free from all encumbrances, if any, created by the landowner;*
> >
> > *(b) the landowner shall cease to have any right to collect or receive any rent or service in respect of such land."*

16. It is evident that Section 3 of the '2010 Act' has been placed at a higher pedestal and has been given an overriding effect. It clearly provides that the rights of the owners shall stand extinguished from the appointed day or from the date a Dholi

> *completes the tenure of 20 years and it is not dependent upon any application filed by the Dholidars."*

2.5 It is thus evident that question No.(i) is squarely covered by the aforesaid judgment. The discussion also answers the question no.(i) proposed by the learned counsel representing the appellant in the year 2011.

2.6 **T**he second question framed in the order dated 28.02.2024, no longer survives because the cross-objections have already been filed.

2.7 As far as question no.(ii) proposed by the learned counsel representing the appellant in the application dated 19.08.2011, no argument was addressed. Hence, the aforesaid question is not required to be answered. In any case, consolidation of connected suits is necessary in order to avoid conflicting judgments as well as to save the precious time of the court.

2.8 Question no.(iii) and (vii) were not pressed by the learned counsel representing the appellant. He failed to draw the attention of the court to any misreading or non-reading or misinterpretation of the documents.

2.9 There is another aspect of the matter which needs attention. Both the courts have held that the suit filed by Sh. Amarnath was within the period of 12 years, the prescribed period of limitation for filing suit for possession. This court has a different perspective to examine the aforesaid issue. Sh. Amarnath is one of the executant of the sale deed dated 25.09.1969. He was required to seek its annulment/rescission. Hence, he could not file a suit for possession unless he seeks annulment. Hence, he was required to file a suit under Section 31 of the 1963 Act. There is a specific provision, Article 59 which deals with cancellation/setting aside an instrument or decree or rescission of a contract. The registered sale deed is an instrument arising from a contract. Article 59 of the Schedule attached to the Limitation Act, reads as under:-

59. *To cancel or set aside an instrument or decree or for the rescission of a contract*	*Three years*	*When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.*

2.10 The period from which the limitation begins to run is the date when the facts entitling the plaintiff to have the instrument cancelled become known to him. Sh. Amarnath while filing the suit does not claim that the aforesaid instrument was not known to him when he executed the sale deed. In para 2, he states that the vendors had no right to sell the land. In paragraphs 4 and 6 of the plaint, the plaintiff has pleaded his cause of action which reads as under:-

> *4. That the Defendant no.1 was requested many a times to return the land to the original right-holders i.e. the plaintiff and defendant nos.2 to 8, he has been promising to oblige but has finally refused to return the said suit land hence the necessity for the presence suit.*
>
> *6. That the cause of action arose to the plaintiff a week ago at village Malakpur Khadar, within the jurisdiction of this Hon'ble Court and this Hon'ble Court has got the jurisdiction to try and hear this suit."*

2.11 As per Article 59, the limitation began to run on the day the sale deed was executed by Sh. Amarnath, one of the vendor. Hence, the limitation for filing the suit lapsed in May 1972, whereas the suit appears to have filed on 01.06.1981, as is evident from the stamp on the plaint. Consequently, both the courts have erred in assuming that the period of limitation is 12 years. The period of limitation under Article 65 is with respect to suit for possession of immovable property or any interest therein based on title. However, since there is a specific provision under Article 59, which provides for cancellation/setting aside an instrument, then specific article would be applicable.

2.12 On careful reading of the plaint, it is evident that the plaintiff Sh. Amarnath has sought declaration that the sale of the above land by sale deed registered on 28.05.1969, is null and void *ab initio* and hence not binding upon the plaintiff and other co-sharers. In fact, the plaintiff was required to file suit for cancellation of instrument in terms of Section 31 of the Specific Relief Act, 1963 (hereinafter referred to as 'the 1963 Act') which reads as under:-

> ***"31. When cancellation may be ordered.—***
>
> *(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.*
>
> *(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation."*

2.13 Since, the plaintiff is one of the executant of the sale deed, he is required to file a suit to have it judged void or voidable or in other words declare it cancelled. Hence, the suit of the plaintiff was governed by Section 31 and not Section 34 of the 1963 Act.

2.14 Consequently, the suit would be governed by Article 59 of the Schedule attached to the Limitation Act. In these circumstances, the question would arise is what is the period of limitation if the executant of the sale deed prays for its annulment and possession?

2.15 In view of the aforesaid discussion, the period of limitation is 3 years which would begin to run from the date when the facts entitling the plaintiffs to have the instrument cancelled or set aside or the contract resided first becomes known to him. Article 58 also uses the word 'first' which is of significant importance. In ordinary circumstances, the executant would come to know of the instrument on the date it was executed unless there is evidence to the contrary. Hence, the period of limitation will begin to run from the date the instrument was executed i.e. 25.05.1962 , which will end on 25.05.1972. Importantly, the plaintiff has not alleged that this sale deed was previously not known to him. He has not stated that the period of limitation began to run only in the year 1978 or 1979. Hence, both the courts have erred in declaring that the suit for possession filed by Sh. Amarnath was within the period of limitation.

2.16 From reading of the judgments passed by the courts below, it becomes evident that the entire premises on which the sale qua 'Dholi' land to the extent of 6 kanals comprised in khewat no.249 has been declared illegal is that it is not capable of being alienable. In fact, all the judgments which have been noticed by the courts below point to the observations made by the Division Bench in ***Sewa Ram vs. Udaigit, AIR 1922, Lahore, 126,*** it may be noticed that the aforesaid judgment was explained in a subsequent Division Bench judgment in ***Baba Badri Dass vs. Dharma and others, 1981, PLJ, 447.*** In paragraph 15 of this judgment, the Division Bench held that the decision of the Lahore High Court did not appear them to be correct.

2.17 The courts have also relied upon judgment passed in ***Dharma vs. Smt. Harbai, 1976, PLJ, 617*** which has already been discussed and explained in the judgment passed in ***Chhaju Ram's case (supra)***. The courts have also relied upon the judgment passed in ***Tirkhas and others vs. Dwarka Parshad and another, 1972, PLJ, 614***, though this judgment was based upon ***Sewa Ram's case (supra)***, however, 'Dholidar' after mortgaging the land twice over, the subsequently mortgagee filed suit for possession against the previous mortgagee. In that context, the court held that the property was not alienable. Hence, the judgment is not applicable. The courts have also relied upon the judgment passed in ***Gram Pancahayat, Khanpur vs. Shitla Devi and others, 1982 PLJ, 457***. This is a judgment passed by a Financial Commissioner. This judgment is in the context of 99 years lease. The Financial Commissioner was examining the case in the context of mutation proceedings.

2.18 In fact, all the judgments relied upon by the courts are before the 2010 Act. None of the judgments have examined the concept of Estoppel, Section 43 of the Transfer of Property Act and Section 13 of the Specific Relief Act. Hence, the aforesaid judgments are on the different facts and issues.

2.19 Importantly, it is not the case of Sh. Amarnath, one of the vendor, that 'Dholi' was inalienable. In fact, no foundation in this regard has been paid by Sh. Amarnath either in its pleadings or in the evidence.

Both the courts have also not examined the aforesaid concept. The judgments relied upon by the courts below are based on the aforesaid concept.

2.20 Moreover, it is important to note that the sale/transfer deed is not restricted to ownership rights. The sale deed can be sale of lease hold rights, rights of the mortgagee, possessory rights etc. But even if, for the argument sake, if the reasoning given by the courts below is accepted, still Sh. Amarnath being one of the vendor after having transferred his right, title or interest could not be permitted to allege that he was not competent to execute the sale deed and therefore, the property should be restored to him. He is not only estopped by the rule of estoppel but also in equity.

3. ***DECISION***

3.1 Consequently, the suit filed by Sh. Amarnath was filed beyond the prescribed period of limitation. Hence, both the regular second appeals shall stand dismissed whereas the cross-objections filed by legal representatives of Sh. Dal Singh shall stand allowed and the suit filed by Sh. Dal Singh shall completely stand decreed. The plaintiff Sh. Dal Singh is declared to have become owner of the property purchased by him by virtue of sale deed dated 25.05.1969, which was registered on 28.05.1969.

3.2 All the pending miscellaneous applications, if any, are also disposed of.

23rd May, 2024 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO