

ITEM NO.105

COURT NO.11

SECTION III-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 719/2011

BUDHIMAN SINGH

Appellant(s)

VERSUS

PRESCRIBED AUTHORITY &amp; ANR.

Respondent(s)

Date : 07-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s)      Mrs. Rani Chhabra, AOR  
                                 Ms. Neelam Kalshi, Adv.

For Respondent(s)    Mr. Tanmaya Agarwal, AOR  
                                 Mr. Shwetank Sailakwal, Adv.  
                                 Mr. Wrick Chattrje, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The only question urged in the present proceedings is as to whether land measuring 3.16 acres in respect of which the rights of third parties in consolidation proceedings was upheld should be excluded from the ceiling limit of the land found in excess in the case of the appellant.

There are two orders qua adverse possession-one dated 5.3.1975 not agitated further and the second one dated 2.3.1976 agitated till the revisional jurisdiction dated 08.11.1978. Thus, one is prior to the declaration of excess land on 17.1.1976 while the second one is beyond that date.

The aforesaid aspect, however, does not form part of any

discussion in the adjudication proceedings before the revisional and appellate authority dealing with the issue of ceiling. The position is also same in the impugned order.

Learned counsel for the appellant submits that as per her instructions, copies of the orders in consolidation proceedings declaring rights of adverse possession against third parties was so placed, though form part of no discussion.

We are inclined to give a leeway to the appellant as adverse proceedings can only be initiated after a period of 12 years. The findings against the appellant reflected that third parties were in possession beyond that period i.e. from early 1960. Thus, the moot point is whether this land can be included in the land of the appellant for declaration of excess land.

In order to determine whether these documents were so placed before the concerned authorities or at least that aspect urged in the Writ Petition, we call upon the learned counsel for the appellant to file a copy of the Writ Petition bearing No.9676/1979. We would also call upon learned counsel for the respondents to call for records of the competent authority, the appellate authority and the writ proceedings culminating in the impugned order to verify this fact from the records.

Learned counsel for the appellant has prayed and is granted one week's time to file a copy of the Writ Petition.

Insofar as the duty cast upon learned counsel for the respondents is concerned, we direct the authorities to ensure that the records are made available to the counsel within one week with an Officer familiar with the records to facilitate him to

scrutinize the records and assist us after two weeks.

The Officer shall also remain present in Court with the records.

List as part heard for further proceedings on 20.8.2019.

(ASHA SUNDRIYAL)  
COURT MASTER

(BEENA JOLLY)  
BRANCH OFFICER