award wherein it is held that the petitioner is not entitled to any relief. I hold that he is entitled to payment of backwages with effect from 2nd January, 1980, i.e., the date of the termination order Annexure P. 2, to 16th August, 1985, when the award Annexure P. 13 was published and I direct respondent No. 3 to make payment of these wages to the petitioner within three months from today. The petitioner shall also be entitled to the costs of this writ petition which, in view of its partial success, are assessed at Rs. 500 only.

H.S.B.

Before D. S. Tewatia, J.

HARCHAND SINGH and others,—*Appellants.*

versus

MOHINDER KAUR and others,—*Respondents.*

Regular Second Appeal No. 953 *of* 1977.

September 17, 1986.

Evidence Act (V of 1872)—Section 57—Registration Act (XVI of 1908)—Section 49—Rattigan's Digest on Customary Law—Paragraph 22—Male agriculturist dying leaving minor daughters and his mother—Mother claiming succession to the property of the deceased under Customary Law in preference to the claim of her grand daughters by virtue of paragraph 22 of Rattigan's Digest—Custom aforesaid—Whether stands recognised by the Courts of law—Principles for recognition of a custom—Stated—Mother—Whether entitled to succeed the property in preference to the daughters of the deceased—Statement made by the mother before the Guardian Court abandoning her claim to the property of the deceased son by recognising the right of the daughters of the deceased—Mother aforesaid on this statement appointed guardian of the daughters of the deceased—Statement aforesaid—Whether admissible in evidence—Mother—Whether estopped from claiming the suit property as her own.

Held, that the ordinary rule is that all customs general or otherwise have to be proved like any other fact. However, nothing need be proved of which Courts can take judicial notice. Therefore, if there is a custom of which Court can take judicial notice

it need not be proved. When a custom has been repeatedly recognised by the Courts it becomes the law of the land the proof of it then becomes unnecessary under Section 57 of the Evidence Act, 1872. Where the party has, however, failed to prove the custom recorded in para 22 of the Rattigan's Digest on Customary Law, the parties would be governed by their personal law which happens to be Hindu Law in which unmarried daughters have been accorded preference in the matter of succession to the estate of their father in preference to the mother of the deceased and as such the mother would not be entitled to succeed to the property in preference to the daughters of the deceased.

(Paras 9 and 12).

Held, that it is only when a document is used either as a document of title or a party seeks to base its claim to the property on such a document that the document would be required to be registered before being admitted in evidence, as a document which requires registration but is not registered cannot be admitted in evidence in view of the provisions of Section 49 of the Registration Act, 1908. Where, however, there is a mere recognition of an existing right in the property and there is no effort to transfer any right therein nor to create a new right then the said statement would not require registration. As such the statement made before the Guardian Court would be admissible in evidence and the mother would be estopped from claiming the suit property as her own.

(Paras 30, 31 and 32).

Regular Second Appeal from the decree of the Court of Additional District Judge, Ludhiana, dated the 28th day of January, 1977, affirming that of the Sub-Judge, 1st class, Jagraon, dated the 12th day of September, 1973 dismissing the suit of the plaintiffs with costs.

R. S. Bindra, Senior Advocate, Vinod Sharma and Ravi Kant Sharma, Advocates with him, *for the Appellant.*

G. S. Dhillon, Advocate, *for the Respondents.*

JUDGMENT

D. S. Tewatia, J.—

(1) This regular second appeal at the instance of the legal representatives of the plaintiff, Smt. Chandi, widow of one Harnam Singh, arises out of her suit for possession on the basis of title of the suit

property described in the head-note of the plaint as consisting of items 'A' to 'G'.

(2) The case set up in the plaint was that her son Amar Singh died on 17th November, 1954 without leaving a male issue; that he left behind three daughters, defendants 1 to 3, his wife having predeceased him; that the parties were agriculturists and were in the matter of succession governed by customary law, according to which she was entitled to succeed to the suit property left behind by her son Amar Singh; and that the mutation of inheritance No. 5343 in favour of defendants 1 to 3 was illegal and void and had no legal effect so far as the rights of the plaintiff were concerned.

(3) Defendants 1 to 3 contested the claim of the plaintiff and, *inter-alia*, asserted that at the time of the death of their father, they were minors and were entitled to succeed to the estate of their father in preference to their grandmother, the plaintiff. It was also pleaded that in the Court of the Guardian Judge (District Judge), the plaintiff Smt. Chandi had made an application dated 9th December, 1954, Exhibit D. 4, in which she had admitted the fact that defendants 1 to 3 were minors and were owners in possession of the suit property and prayed for her appointment as guardian of the person and property of the defendants 1 to 3; that the plaintiff on 11th February, 1955 made a statement Exhibit D. 5 while giving evidence in the Court of the Guardian Judge that in case she was appointed the guardian of the person and property of the minors, she would not claim any right adverse to defendants 1 to 3 in the suit property and that she conceded that the property in dispute was owned and possessed by defendants 1 to 3; that after that statement the Guardian Judge by his order, dated 11th March, 1955 appointed the plaintiff Smt. Chandi as guadian of the person and property of defendants 1 to 3; and that she was estopped to file the present suit by her act and conduct. It was also pleaded that in view of the circumstances mentioned above, the plaintiff had abandoned and relinquished her title, if any, in the suit property.

(4) Smt. Chandi plaintiff died on 10th November, 1966 during the pendency of the suit. The appellants herein then got themselves impleaded as legal representatives of Smt. Chandi. They relied upon Will, Exhibit P. 17, dated 9th September, 1964, by which the plaintiff bequeathed the entire suit property to them. They were brought on the record as the legal representatives of the plaintiff by order, dated 8th June, 1967.

(5) The case came to be remanded twice by the first appellate Court and it is climbing the appellate ladder third time.

(6) The pleadings of the parties finally resulted in the following issues :

"1. Whether the suit land was ancestral in the hands of preposterous Amar Singh as alleged ? If so, its effect ?

2. Whether the plaintiffs have better right to succeed to the property in suit than the defendants ?

3. Whether Smt. Chandi deceased had agreed not to claim any right in the property in suit in case she was appointed as guardian as alleged in the written statement ?

(Note : Vide his order dated 14th December, 1970, the learned trial Judge directed that the question of abandonment by Smt. Chandi would be covered under issue No. 3 supra).

4. Whether Smt. Chandi deceased executed a valid Will in favour of the plaintiffs ?

5. Whether defendants Nos. 7 and 8 are *bona fide* purchasers for value without notice ? If so, its effect ?

5-A. Whether Smt. Chandi deceased was estopped by her act and conduct from claiming the property in suit ? If so, its effect on the rights of the present plaintiffs ?

5-B. Whether the parties are governed by custom ? If so, what the custom is ?

5-C. Whether the suit is barred by time ?

5-D. Whether the plaintiffs are not the legal representatives of Smt. Chandi deceased ?

6. Relief."

So far as issue No. 1 is concerned, the parties made a statement before the trial Court on 20th July, 1971 that item 'A' alone was to be treated

as ancestral in nature and the rest of the items viz. 'B' to 'G' are non-ancestral in character. The issue was decided by the Court below accordingly.

(7) Issue No. 2 was resolved when Shri K. K. Jain, counsel for the legal representatives, volunteered the statement on 20th July, 1971 that he gave up the independent claim of the plaintiffs as collaterals of Amar Singh deceased. Thus, the claim of the plaintiffs came to be confined only to the right of the original plaintiff Smt. Chandi.

(8) Before the lower appellate Court, the arguments were confined to issues Nos. 2, 3 and 5-A. On issue No. 2, the lower appellate Court concurred in the finding of the trial Court. However, on issues Nos. 3 and 5-A, the lower appellate Court reversed the findings of the trial Court. The fate of the suit, however, remained what it was in the trial Court, that is, the appeal of the plaintiffs was dismissed and the judgment and decree of the trial Court dismissing the suit was sustained. So the present appeal at the instance of the plaintiffs.

(9) The first question that falls for consideration is as to whether Smt. Chandi, grandmother of defendants 1 to 3, was a preferential heir to the estate of last male-holder, that is, Amar Singh, son of Smt. Chandi, and father of defendants 1 to 3. Admittedly, parties are agriculturists. Hence, in the first instance, one has to look into the customary law and not their personal law for guidance to find the answer to the above question. Before the Courts below on behalf of the plaintiff, reference was made to paragraphs 22 and 23 of the Rattigan's Digest to show that Smt. Chandi was a preferential heir to the estate of the last male-holder. Paragraphs 22 and 23 of the Rattigan's Digest on Customary Law are in the following terms:

"22. In default of male lineal descendants and of a widow the mother of the deceased succeeds to a life interests, provided she has not remarried."

23. (1) A daughter only succeeds to the ancestral landed property of her father, if an agriculturist, in default :

(1) Of the heirs mentioned in the preceding paragraph; and

(2) Of near male collaterals of her father, provided that a married daughter sometimes excludes near male collaterals, especially amongst Mohammadan tribes :

(a) where she has married a near collateral descendant from the same common ancestor as her father; or

(b) where she has, with her husband, continuously lived with her father since her marriage, looking after his domestic wants, and assisting him in the management of his estate; or

(c) where, being married to a collateral of the father's family, she has been appointed by her father as his heir.

A daughter's son is not recognised as an heir of his maternal grandfather, except in succession to his mother.

(2) But in regard to the acquired property of her father, the daughter is preferred to collaterals."

Both the Courts below held that the plaintiff has failed to prove the custom recorded in paragraph 22 of the Rattigan's Digest and that in the absence of any such custom, the parties would be governed by their personal law which happens to be Hindu Law, under which unmarried daughters have been accorded preference in the matter of succession to the estate of their father as against their grandmother.

(10) The lower appellate Court approached the question like this; that all customs, general or special, have to be proved like any other fact and that in view of the provisions of section 57 of the Evidence Act, however, nothing need be proved of which Court can take Judicial notice. If the Court can take judicial notice of a custom, then it does not have to be proved. A custom, which is repeatedly recognised by the Courts, becomes law and then it need not be proved, because the Courts would then take the judicial notice thereof.

(11) The only judicial decision brought to the notice of the lower appellate Court by way of an instance of recognising the custom of mother of the last male-holder being preferred to his

daughters is furnished by *Musammat Sultan Bibi, minor, daughter of* Ismail v. *Ismail* (1). That was a case from district Jullundur and concerned persons belonged to Weaver Community and they were not agriculturists. This authority, obviously, did not furnish an instance of Court recognising the custom referred to in paragraph 22 of the Rattigan's Digest governing the agriculturists. The lower appellate Court, therefore, turned the focus for guidance in the direction of the personal law of the parties, because where the custom failed that was the right thing to do.

(12) For the approach, the lower appellate Court drew sustenance from the following observations of the Supreme Court in *Ujagar Singh* v. *Mst. Jeo,* (2):

> "...the use of expression general custom of the Punjab' is inaccurate....." Plowden, J. in Ralla *v.* Budha, 50 Pun Re 1893 at p. 223 said, 'It seems expedient to point out that there is strictly speaking no such thing as a custom or a general custom of the Punjab, in the same sense as there is a common law of England — a general custom applicable to all persons throughout the province, subject (like the English common law) to modification in its application, by a special custom, of a class or by a local custom.'...
>
> ...It, therefore, appears to us that the ordinary rule is that all customs, general or otherwise, have to be proved. Under section 57 of the Evidence Act, however, nothing need be proved of which Courts can take judicial notice. Therefore, it is said that if there is a custom of which the Courts can take judicial notice, it need not be proved..... When a custom has been so recognised by the Courts, it passes into the law of the land and the proof of it then becomes unnecessary under section 57(1) of the Evidence Act. It appears to us that in the Courts in the Punjab the expression 'general custom' has really been used in this sense, namely, that a custom has by repeated recognition by Courts, become entitled to judicial notice.
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> * * * * *

(1) 69(1922) I.C. 136.
(2) AIR 1959 S.C. 1041.

We, therefore, think that even if the respondent had been unable to prove the custom in her favour she is entitled to succeed in the suit on the basis of the personal law of the parties, namely, the Hindu Law."

Learned counsel for the appellant, besides drawing attention to the case of *Musammat Sultan Bibi* (supra), additionally cited *Partap Singh* v. *Mussammat Jai Kaur,* (3), *Mamun and others* v. *Mst. Jowai etc.* (4); *Abdul Hasan Khan* v. *Qutab Ali Khan and others,* (5); and *Shiromani Gurdwara Parbandhak Committee and others* v. *Harcharan Singh* (6).

(13) Neither of the additionally cited judgments concerns a case where to the estate of the last male-holder, the mother had been preferred to his daughters in the matter of succession.

(14) In fact, the following observations from *Partap Singh* v. *Mussammat Jai Kaur,* (supra) support the argument on behalf of the respondent that the Court had not recognised the custom on the basis of which a mother would succeed to the estate of her son in preference to his daughters, that para 22 of the Rattigan's Digest did not represent the correct summing of judicial precedents that have been noted in support of the said custom, and that the judicial precedents quoted in support of the said paragraph concerned mother's right to succeed to the estate of her son in competition with his collaterals :

"On appeal before us, it was argued that paragraph 22 of Rattigan's Digest gives a misleading summary of the authorities on which it purports to be based. It is pointed out by counsel that these authorities refer to the rights of a mother as against collaterals or a sister and not as against a son of a co-wife. This criticism appears to be justified....."

Learned counsel for the appellant cited *Salig Ram* v. *Mst. Maya Devi* (7); *Jai Kaur and others* v. *Sher Singh and others* (8); and *Kehar Singh and others* v. *Chanan Singh and others* (9), with a view

(3) 43 P.R. 1919.
(4) (1927) I.L.R. 8 Lah. 139.
(5) 79 P.R. 1889.
(6) A.I.R. 1934 Lah. 1.
(7) AIR 1955 S.C. 266.
(8) AIR 1960 S.C. 1118.
(9) AIR 1968 S.C. 806.

to show that the custom recorded in paragraph 23 had already received judicial recognition even from the apex Court and that since paragraph 22 is referred to in paragraph 23, so it must be taken that the custom recorded in paragraph 22 of the Rattigan's Digest too had received judicial recognition of the Supreme Court.

(15) There is no merit in this contention. What had received judicial recognition of the Supreme Court in all the three cases, is the custom recorded in sub-para (2) of para 23 of the Rattigan's Digest, which deals with the rights of unmarried daughters to succeed to the self-acquired property of their father in preference to collaterals. Mother of the last male-holder surely would not fall in the category of his collaterals. She falls in the category of his ancestors, just as his progency would not fall in the category of collaterals — they would fall in the category of descendants. It is para (1) of para 23 that makes a reference to para 22. No decision had been cited wherein the Courts may have recognised the custom recorded in para (1) of para 23 of the Rattigan's Digest and, therefore, it has not been established that even by implication the Courts had recognised the custom recorded in para 22 of the Rattigan's Digest.

(16) For the reasons aforementioned, one cannot but agree with the approach adopted by the lower appellate Court and, consequently, with its finding that defendants 1 to 3, daughters of Amar Singh, were entitled to succeed to his estate in preference to his mother Smt. Chandi, the plaintiff.

(17) In the trial Court, defendants 1 to 3 sought to check-mate the plaintiff by urging that the statement of Smt. Chandi plaintiff Exhibit D. 5 when read with her application Exhibit D. 4 and the order Exhibit D. 2 of the Guardian Judge appointing her as guardian of the person and property of the minors defendants 1 to 3, constituted a family arrangement between the plaintiff and defendants 1 to 3, besides amounting to surrender of her rights in favour of defendants 1 to 3. It was also urged before the trial Court that the plaintiff was estopped from filing the present suit by her conduct, as manifested in her statement Exhibit D. 5.

(18) The plaintiff, on the other hand, contended that before constructing the document Exhibit D. 5 to see what it amounted to, it must first past muster the objection to its admissibility on the

ground that it required registration and since it was not registered, it could not be admitted in evidence, in view of the provisions of section 49 of the Registration Act.

(19) The trial Court got over the objection of the plaintiff to the admissibility of the document Exhibit D. 5 by observing that neither as a family arrangement nor as document purporting to show surrender of plaintiff's limited rights, Exhibit D. 5 was required to be registered, as the same did not involve transfer of any right whatsoever. The plaintiff merely sought to efface herself.

(20) The trial Court did not go into the question of admissibility of the document in relation to the plea of estoppel canvassed before the trial Court on behalf of defendants 1 to 3.

(21) The lower appellate Court observed that it was not open to defendants 1 to 3 to urge that there had been a family arrangement between the plaintiff on the one hand and defendants 1 to 3 on the other, because no such plea had been taken in the written statement, nor any issue had been struck to that effect. The lower appellate Court did not go into the question of surrender by Smt. Chandi of her limited interest in the estate in question. Nor the lower appellate Court went into the question of admissibility of document Exhibit D. 5.

Exhibit D. 5 is in the following terms :

Statement of Mst. Chandi petitioner on S.A.

Amar Singh was my only son. His wife was Mst. Tej Kaur. Amar Singh had three daughters from Mst. Tej Kaur, who are minors and for whose appointment I have filed the application. Mst. Harbans Kaur is the eldest and is aged about 16. The second is Mohinder Kaur, aged about 13, and the youngest is Surinder Kaur, aged 10 years. Mst. Tej Kaur died soon after the partition. The minor daughters continuously lived with Amar Singh and myself thereafter till just before the demise of Amar Singh. Amar Singh died four months ago. About a month before Amar Singh's death, Bhajan Singh, maternal uncle of the minors, came there and took them with him temporarily. Amar Singh left a good bit of landed property, which was allotted to him in lieu of his property in Pakistan, in village Khiik. He has also got

other land jointly with Sham Singh in village Sowaddi. He has also got some mortgagee rights jointly with Sham Singh, my husband's brother. There are also other deposits in the bank, as detailed.

The landed and the other property all belongs to the minors, and though legally I have got a share in the property being the mother of the last male-holder, yet if I am appointed a guardian of the person and property, I do not want to claim anything in it, except my maintenance. I have got no interest adverse to the minors, because the minors are the only descendants of mine alive. I want to bring them up myself according to the position of the family. The minors are not being properly looked after and are not being brought up in a proper atmosphere.

* * * * *."

Exhibit D. 2 is in the following terms :

"This order will dispose of three applications, filed by Mst. Chandi, the grandmother, the other by Bhajan Singh, maternal uncle, and the third by an uncle of the father of the minors, each asking for his or her appointment as the guardian of the person and property of three minor girls, daughters of Amar Singh. Two of the eldest daughters have appeared before me. One is 18 and the other is 15 years of age, and the youngest sister is about 12. Today the parties have made a statement, agreeing that Mst. Chandi may be appointed as the guardian of the person and property. This, therefore, settles one matter. The second important point is the place where the girls should be kept.

I am not inclined to send the girls to a place against their wishes, though I personally feel that it would have been much better if they get education at Sowaddi where there is a High School, and it would have meant no expense. However, I feel that, in the present circumstances, it will be better if the three girls are kept in the hostel at Raikot, as suggested by Bhajan Singh. In that way, they will remain away from the parties, and will devote themselves to studies, and will also be in their own atmosphere of young girls. Bhajan Singh has

offered to pay half of the expense. The remaining half should be paid from the estate of the minors. Immediate steps should be taken to lease out the land through the Tehsildar, and the guardian will get the girls admitted, and Bhajan Singh will take the girls to the school and assist in the admission. He will also pay, to begin with, whatever expenses are to be paid at the time of admission, and, later, accounts will be taken, so that he should bear one-half of the expenses. This experiment will be reviewed next year and necessary orders will be passed. Either of the parties will be at liberty to move the Court for necessary directions. Mst. Chandi is, therefore, appointed as the guardian of the person and property of the minors. She will furnish security in the sum of Rs. 4,000 within a week."

As regards the document reflecting surrender of estate or abandonment of estate on the part of Smt. Chandi in favour of defendants 1 to 3, it may be observed that the trial Court had in its judgment noted that,—*vide* order dated 14th December, 1970 it had directed that the question of abandonment by Smt. Chandi would be covered under issue No. 3 (supra). Therefore, it would be taken that the parties were put at issue in regard to the plea of abandonment. In my opinion, Smt. Chandi by saying in Exhibit D. 5 'though legally I have got a share in the property being mother of the last male-holder, yet..... I do not want to claim anything in it except my maintenance' clearly meant to abandon her rights, in other words surrender her rights, in the suit property in favour of defendants 1 to 3.

(22) It has however been urged on behalf of the plaintiff-appellants that surrender could be legally made by Smt. Chandi only in favour of her next heirs and not in favour of strangers. It was maintained that on the date she made the statement Exhibit D. 5, the present appellants were to succeed to the estate of Amar Singh in the absence of Smt. Chandi and particularly to the ancestral part thereof.

(23) In my opinion, there is merit in the contention advanced on behalf of the appellants and, therefore, even if Exhibit D. 5 is to be construed as reflecting surrender of estate on the part of Smt. Chandi in favour of defendants 1 to 3, the said surrender was invalid in law.

(24) As regards the plea of family settlement between the parties, it may be observed that, in substance, Smt. Chandi abandoned all her rights in the estate of Amar Singh in favour of defendants 1 to 3, as is evident from document Exhibit D. 5. Even if for the sake of argument this is done as a result of family arrangement, the same would be invalid if surrender of her estate in favour of defendants 1 to 3 is held to be invalid, because even by way of family arrangement, Smt. Chandi could not surrender her rights totally in the estate of Amar Singh in favour of defendants 1 to 3 who are not entitled to inherit the estate in preference to the present appellants — the appellants being the next reversioners being the sons of Amar Singh's real paternal uncle. Hence, it is not necessary to go into the matter as to whether Exhibit D. 5 disclosed a family arrangement and whether such a plea had been raised in the written statement and whether the plaintiff had been taken by surprise or not.

(25) The next question that arises for consideration is as to whether Exhibit D. 5 can operate as estoppel. There is no manner of doubt as to the fact that Exhibit D. 5 contained a representation of the existence of the fact that the suit property was possessed and belonged to defendants 1 to 3; that the said representation in the eye of law was made to defendants 1 to 3; that the said representation had been believed to be correct; and that the said representation had been acted upon on the belief of its being correct.

(26) Statement Exhibit D. 5 was made during the proceedings in which guardian to defendants 1 to 3, who were minors, was to be appointed. There were three contestants, Smt. Chandi plaintiff on the one hand and maternal uncle and one paternal uncle of defendants 1 to 3 on the other. Defendants 1 to 3 being minors, obviously, could not speak for themselves. It was the Guardian Court which was to say 'yes' or 'no' to the one or the other contestants. The issue was whether Smt. Chandi was to be guardian of the person and property of defendants 1 to 3 or the other contestants. The minors were not in a position because of their minority to accept one or the other. It was the Guardian Court which was to speak out for them. When Smt. Chandi made a representation contained in Exhibit D. 5 in Court that defendants 1 to 3 were the owners-in-possession of the suit property and that she disclaimed all interest in that property adverse to the minors if she was appointed guardian of their person and property, the Court spoke out on behalf of the

minors in the affirmative. The appointment of the guardian by the Court tantamount to acceptance of the representation on behalf of minors, defendants 1 to 3, and it also amounted to acting upon the representation believing the correctness of the same.

(27) The important question that arises, however, is as to whether defendants 1 to 3 in accepting Smt. Chandi as the guardian of their person and property acted to their detriment. This question can be answered by putting a counter question; could the Guardian Judge, again speaking for the minors, defendants 1 to 3, accede to the request of Smt. Chandi to be appointed guardian of the person and property of the said minors if she had not made the representation as contained in Exhibit D. 5 ? In my opinion, the Guardian Court would not have appointed Smt. Chandi as the guardian of the person and property of the minors, defendants 1 to 3, because soon after they were to be opposing parties to the estate of Amar Singh. The minors as a result of believing the representation made by Smt. Chandi as true, placed themselves under her tutelage and also placed their property under her dominion, which the Court on their behalf would not have otherwise done.

(28) It was, however, contended on behalf of the appellants that the admission in question was made in ignorance of her right in law and, therefore, the same would not be held against her.

(29) There is no merit in this contention. A perusal of Exhibit D. 5 would show that she was clearly aware of her right in the property of Amar Singh and she had said as expressly in that document and, therefore, it cannot be said that the said representation was made in ignorance of her right in law.

(30) Lastly, we come to the admissibility of the statement, Exhibit D. 5, of Smt. Chandi plaintiff in the context of plea of estoppel raised on behalf of defendants 1 to 3. By the said statement, Smt. Chandi did not transfer any right in the property, nor she sought to create any right in any property. She merely recognised the existing right of defendants 1 to 3 in the given property of their father. Therefore, the said statement on the face of it did not require to be registered. In any case, it is only when a document is used either as a document of title or a party seeks to base its claim to the property on such a document, that the document would be required to be registered before being admitted in evidence. In the present case, the document is used to stop the

plaintiff to maintain the present suit for possession of the property on the basis of title. If such a statement would not be available to be used against such a party, then unscrupulous people would have licence to say whatever they like in Court in order to gain relief with full knowledge that in future they would not be going to be held to that statement for want of registration.

(31) For the reasons aforementioned, I am of the view that document Exhibit D. 5 would be admissible in evidence in the context of the plea of estoppel raised on behalf of defendants 1 to 3.

(32) In the result, I hold that Smt. Chandi plaintiff is estopped from filing the present suit and claiming the suit property as her own.

(33) For the reasons aforementioned, I find no merit in this appeal and dismiss the same but with no order as to costs.

H.S.B.

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