

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

CR-6529-2013

Date of decision-28.11.2015

GURDEV SINGH

...Petitioner

VS

CHHAJJU SINGH AND ANR.

...Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harsh Goyal, Advocate for
Mr. Tribhawan Singla, Advocate
for the appellant.

None for the respondents.

RAJ MOHAN SINGH, J (Oral)

[1] This case has been passed over since morning but none has turned up on behalf of respondent No.1. This is a revision petition filed by the defendants-petitioners against order dated 25.09.2013 passed by District Judge, Barnala vide which the order dated 22.04.2013 passed by Additional Civil Judge (Senior Division) Barnala has been confirmed. Plaintiff-respondent filed suit for permanent injunction in which application under Order 39 Rule 1 and 2 CPC has also been filed. Restraint order has been sought against the defendants that they may be restrained from taking forcible and illegal possession of the suit land. The application has been contested by the defendants-petitioners on the ground that he is in possession of the area measuring 3 kanal bearing khasra no.91//18/1/2(2-13) and 91//18/2(0-7) owned and possessed by the defendant by virtue of order dated 25.12.1959 passed by Consolidation Officer and mutation to that effect was also sanctioned in his favour which was duly incorporated in the revenue record.

[2] Trial Court while observing in the context of order dated 25.12.1959 passed by Consolidation Officer has observed that no doubt there is some order of revenue court regarding correction of ownership of the property, but at this stage Court has to see whether the applicant is in possession over the suit property or not. Trial Court also observed that in view of khasra girdawaris and demarcation report and even from the revenue record viz. jamabandi, applicant-plaintiff is prima facie proved to be in possession of suit property and on that premise proceeded to grant temporary injunction in favour of applicant-plaintiff thereby restraining the defendant from taking forcible and illegal possession of the suit property and from interfering in possession of the plaintiff till final disposal of the suit.

[3] Feeling aggrieved from the aforesaid order, defendants-petitioners ventured to file Civil Misc. Appeal before the District Judge Barnala. Lower Appellate Court while deciding the Civil Misc. Appeal has observed that the plaintiff has purchased 13 kanals of land in khasra No.91/22(1-16), 18(5-0) and 22/2(6-4) from one Jangir Singh and he is in possession of the same.

[4] Apparently, area of khasra No.18(5-0) cannot be treated to be 18 (8-0). On the other hand, the pleaded case of the defendants-petitioner is that by virtue of order passed by the Consolidation Officer under Section 21 (4) of the Consolidation Act they are in possession. In case titled as Gurdev Singh vs. Swaran Singh, 3 kanals of land was given to the defendant in khasra Nos.91//18/2 and (0-7) and 91/18/2 (2-13), mutation No.2518 dated 23.04.1960 was sanctioned in pursuance to order dated 25.12.1959. In the revenue record necessary correction was carried out wherein instead of 8 kanal, entry of 5 kanal was incorporated in khasra No.91/18. This correction came to be recorded only in the jamabandi for the year 2010-11 vide rapat No.632 dated 14.08.2012 which is attached herewith as Annexure

P-3. Petitioner has attached the order dated 31.12.1959, jamabandi for the year 1958-59, 1959-60, 1965-66, 1970-71, 1975-76, 1980-81, 1985-86, 1990-91, 1995-96, 2000-01, depicting possession of the petitioner over the khasra No.91//18(2-13) and 91//18(0-7) total 3 kanal 0 marla of land. It is only in the jamabandi for the year 2010-2011 Chajju Singh was shown to be in possession of 91/18(8-0) wherein in the remarks column entry of rapat No.632 dated 14.08.2012 was recorded to the effect that khasra No.91/18(8-0) will be left as 5-0. Even the khasra girdawari for the year 2012-2013 (Annexure P-4) depicts ownership of the petitioner over aforesaid area of 3 kanals.

[5] Having heard the learned counsel for the petitioner, this Court is of the considered view that so far as the area measuring 3 kanal in khasra No.91//18/2(2-13) and 91/18/2(0-7) is concerned, both the parties are staking claim, therefore, the Courts below were not justified in granting injunction in favour of the plaintiff-respondent.

[6] In the fitness of things, the status quo qua aforesaid 3 kanals of land should have been granted. The rival claims arising out of revenue record should have been left to the ultimate decision of the civil suit. So, in view of above parties are directed to maintain status quo qua 3 kanals of land measuring 91//18/(2-13) & 91//18/2(0-7).

[7] With the aforesaid modification, this revision is allowed to the extent of passing status quo in respect of 3 kanal of land measuring 91//18/1(2-13) and 91//18/2(0-7).

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

November 28, 2015