

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

**(1) Regular Second Appeal No.978 of 1986
Date of Order: 12.08.2015**

**Dalip Singh son of Shri Ram Singh, resident of village Kharia,
Tehsil and District Sirsa.**

..Appellant

Versus

Het Ram and others

..Respondents

(2) Regular Second Appeal No.1303 of 1986

Het Ram (deceased) through LRs.

...Appellants

Versus

Dalip Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA

**Present: Mr. D.S.Bali, Sr. Advocate, with
Mr. Parveen Jain, Advocate,
for the appellants (in RSA NO.1303 of 1986) and
for respondent no.1 (in RSA No.978 of 1986)**

**Mr. Sunil Panwar, Advocate
for the appellants (in RSA No.978 of 1986)
for respondent no.1 (in RSA NO.1303 of 1986)**

**Mr. L.N.Verma, Advocate,
for LRs respondents No.2 and 3.**

RAJIVE BHALLA, J (Oral)

This order shall dispose off Regular Second Appeal

Nos.978 and 1303 of 1986.

Het Ram, appellant, in RSA No.1303 of 1986, challenges judgment and decree dated 22.02.1986, passed by the Additional District Judge, Sirsa, whereby his suit for possession has been partly decreed. Dalip Singh, respondent no.1, in this appeal has filed Regular Second Appeal No.978 of 1986, challenging the same judgment and decree by alleging that the suit should have been dismissed in its entirety.

Before deciding the appeals, it would be appropriate to briefly refer to the facts.

Het Ram, filed a suit for possession, claiming that vide decree dated 04.11.1952, he had been declared owner of land bearing Rect. No.252, Killa No.9/1(2-15), Rect. No.253, Killa No.4(8-0), total measuring 10 kanals 15 marlas, situated in village Kharia, Tehsil and District Sirsa but the land was ordered to be auctioned, by the Managing Officer (Rehabilitation), treating it as evacuee property. The land was purchased by Shanu Ram, being the highest bidder. Shankar Dev son of Hari Singh dispossessed the appellant, but in an appeal filed by Het Ram before the Deputy Secretary (Rehabilitation)-cum-Settlement Commissioner, Haryana, the auction was set aside, vide order dated 16.12.1981. The appellant thereafter, filed a suit for possession by arraying Hari Singh as a respondent. During pendency of the suit and pursuant to a compromise, it was agreed that 2 kanals and 15 marlas of the land would remain with Het Ram as owner whereas the remaining land would remain in possession of Hari Singh. The appellant prayed that

as he is owner of the land, in dispute, a decree for possession be passed with respect to the entire land.

Dalip Singh, Hari Singh and Shankar Dev, put in appearance and filed a joint written statement denying the decree passed in favour of the appellant and alleged that Het Ram has no rights, title or interest in the land, in dispute. They also pleaded that the suit is time barred and may be dismissed.

After considering the pleadings, the trial court framed the following issues:-

- “1. Whether the plaintiff is the owner of the suit land as alleged?OPP
2. Whether the plaintiff is entitled to the possession of the property in dispute, as alleged?OPP
3. Whether the suit is not maintainable in the present form?OPD
4. Whether the plaintiff has no cause of action?OPD
5. Whether the suit is not properly valued for the purpose of court fee and jurisdiction?OPD
6. Relief.”

Thereafter, the parties were called upon the lead evidence.

The trial Court after considering the evidence and the pleadings, dismissed the suit by holding that Het Ram has failed to adduce any evidence to prove his ownership and declared Dalip Singh, Hari Singh and Shankar Dev as owners in possession of the land, in dispute.

Aggrieved by the aforesaid judgment and decree, Het Ram filed an appeal, which was partly allowed by the Additional District Judge, Sirsa by holding that in view of the compromise between Het Ram and Hari Singh, the former is declared owner of 2 kanals and 15 marlas and the suit for possession was decreed with respect to 2 kanals 15 marlas land but dismissed with respect to the remaining land.

Counsel for Het Ram, appellant in RSA No.1303 of 1986, submits that the first appellate Court should have decreed the suit in its entirety. The compromise, is contrary to order dated 16.12.1981, setting aside the auction and judgment and decree dated 04.11.1952, declaring Het Ram as owner of the entire land. The mere fact that the appellant may have entered into a compromise with Hari Singh, is irrelevant as Hari Singh apart from his illegal possession of the land in dispute has no rights, title or interest, in the land, in dispute.

Counsel for Hari Singh submits that the compromise between Het Ram and Hari Singh was subject matter of an earlier suit, filed by Het Ram, which was dismissed by affirming the compromise and affirming the proprietary rights of Het Ram with respect to 2 kanals and 15 marlas of land.

Counsel for Dalip Singh, appellant in RSA No.978 of 1986, submits that Dalip Singh is owner of the land, in dispute being a transferee from Hari Singh. Dalip Singh's possession is reflected in the khara girdwaris. Het Ram filed an application for correction of the khasra girdwari, which was dismissed. The court belows have, therefore, erred in holding that 2 kanals and 15 marlas of land is

owned by Het Ram and the remaining land by Hari Singh. Counsel for Dalip Singh submits that as Dalip Singh was not a party to the compromise decree recorded in the suit filed by Het Ram, he is not bound by the decree and his rights as owner by adverse possession or his possessory rights have to be adjudged independently.

I have heard counsel for the parties and find no reason to interfere with the impugned judgment much less hold that any substantial question of law arises whether in the appeal filed by Het Ram or in the appeal filed by Dalip Singh.

Het Ram was declared as owner of the entire land. The land was auctioned but the auction was set aside on 16.12.1981 by the Deputy Secretary(Rehabilitation)-cum-Settlement Commissioner. In a suit filed by Het Ram, a compromise led to the passing of a decree in favour of Het Ram, with respect to 2 kanals and 15 marlas. Dalip Singh alleges that he purchased the land in dispute from Hari Singh. Apart from the fact that Hari Singh's title is itself rather tenuous, Dalip Singh is unable to refer to any document of title whether in the shape of a sale deed or any other instrument known to law. Dalip Singh's argument that as he was in possession, he should be declared owner by adverse possession, cannot be accepted as Dalip Singh is not clear as to who was the true owner, whether Het Ram or Hari Singh, against whom he claims adverse possession. The claim of adverse possession against Hari Singh would obviously fail, as the appellant claims to have purchased the land from Hari Singh. As regard the claim against Het Ram, the appellant does not admit that Het Ram was the true owner, thereby

negating the first factor required to raise a plea of adverse possession.

Consequently, as neither appeal gives rise to any substantial question of law nor does the impugned judgment and decree suffer from any error of law, both appeals are dismissed.

August, 12, 2015
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(RAJIVE BHALLA)
JUDGE