

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

Date of decision:24.03.2015.

Karnail Singh

.....Petitioner

v.

Financial Commissioner(Appeals)Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Gurcharan Singh,Advocate for the petitioner
Mr.Abhishek Singla,Advocate for caveators-
respondents 5 to 7.

Jaswant Singh,J.(Oral)

This common order shall dispose of aforesaid two writ petitions since common questions of facts and law are involved between the same parties qua the same land.

In brief, respondents 5 to 7 namely Beant Singh, Bhupinder Singh and Paramjit Singh sons of Niranjana Kaur filed two separate suits under the Punjab Tenancy Act before revenue officials for recovery of mesne profits for two separate periods of time [(i.e. Kharif-Rabi 1997-98, Kharif-Rabi 1998-99 and Kharif-Rabi 1999-2000-subject matter of CWP 24844/2014) and (Hari-2003 to Sauni 2005-subject matter of CWP 25916/2014) claiming that they are owners to the extent of their share and respondent-Karnail Singh was in unauthorised possession. Assistant Collector Ist Grade, Fatehgarh

Sahib vide two separate orders of even date i.e. 30.5.2008(P-1) decreed both the suits holding that Karnail Singh was in illegal cultivating possession of the land in dispute and liable to pay mesne profits. Two appeals filed by Karnail Singh were dismissed vide two separate orders dated 8.12.2008(P-3) by Deputy Commissioner-cum-District Collector, Fatehgarh Sahib. Two separate revisions filed by Karnail Singh-petitioner were also dismissed vide two separate orders dated 2.9.2009 (P-4) by Divisional Commissioner, Patiala Division, Patiala. Further revisions filed by Karnail Singh have also been dismissed vide order dated 13.3.2014(P-6) passed by Financial Commissioner(Appeals) Punjab. Hence the present two writ petitions filed by Karnail Singh.

Learned counsel for the petitioner by referring to order dated 17.9.2014(P-7) passed by Divisional Commissioner, Patiala Division, Patiala in an identical suit filed by respondents Beant Singh etc. qua the same suit land and against the present petitioner submits that a finding has come that the land in dispute as per jamabandis has been recorded in the ownership of "*Jumla Malkaan Hasab Rasad Khewat*" which concededly has not been partitioned between the proprietors/ landowners till today and therefore it cannot be validly held that the respondents alone are owners of the suit land entitled to mesne profits.

On the other hand learned counsel for the caveators has not been able to refute such a contention since neither any lease deed or

any revenue record appears to have been placed on record or appreciated in the present suits for recovery of mesne profits in the two separate suits.

After hearing learned counsel for the parties it transpires that there is absolutely no appreciation of revenue record relating to the suit land in the present proceedings and therefore, in the light of aforesaid findings noticed in Annexure P-7, it is deemed expedient to remand the matters back to the learned Financial Commissioner (Appeals) Punjab to pass fresh orders on the basis of appreciation of revenue records produced, if any.

Accordingly in view of the above both the orders dated 13.3.2014(P-6) passed by Financial Commissioner(Appeals)Punjab are set aside and the matters remanded back to Financial Commissioner (Appeals)Punjab to revive the already filed revisions and decide the matters afresh in view of the entries in the revenue record.

Parties are directed to appear before the Financial Commissioner(Appeals)Punjab on 27.4.2015.

24.03.2015.
joshi

(Jaswant Singh)
Judge