

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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C.M. Nos. 13138-39-C of 2010 and
RSA No. 4364 of 2010 (O&M)

Date of Decision: 28.11.2015

Gopal Krishan Duggal@ Bachittar Singh

.....APPELLANT

VERSUS

Major Dass and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

PRESENT: Mr. P.S.Dhaliwal, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J (ORAL)

C.M. No. 13138-C of 2010

Prayer in this application is for exemption from filing the certified copy of judgment and decree dated 11.10.2006 passed by the Civil Judge, Junior Division, Barnala.

Prayer granted. Filing of certified copy of judgment and decree dated 11.10.2006 passed by the Civil Judge, Junior Division, Barnala is dispensed with.

Application stands disposed of.

RSA No. 4364 of 2010

Challenge in this appeal is to the judgment and decree dated 11.10.2006 passed by the Civil Judge (Junior Division), Barnala, by which the suit for permanent injunction of the respondents-plaintiffs that they are

in possession of the land measuring 14 Kanals 17 Marlas, which comprises of Khasra No. 1173, which has wrongly been mentioned during consolidation, by mistake, to consist of an area of 13 Kanals 3 Marlas whereas actually it is 14 Kanals 17 Marlas, stands decreed, the appeal against which preferred by the appellant-defendant stands dismissed by the Additional District Judge, Barnala on 19.07.2010.

2. It is the contention of the learned counsel for the appellant that as per the evidence, which has been brought on record, the possession of the appellant-defendant on 1 Kanal and 14 Marlas has been duly established. His further contention is that as per the order passed by the Assistant Collector, 2nd Grade, Barnala dated 21.03.1994, it is established that there was a compromise entered into between the parties and on the basis of which, 1 Kanal and 14 Marlas of land of Khasra No. 1173 was to be determined by the consolidation authorities. He, therefore, contends that the possession of the appellant-defendant having been established, the decrees, which have been passed by the Courts below, cannot sustain and deserve to be set aside.

3. This contention of the learned counsel for the appellant cannot be accepted in the light of the categorical finding given by the Courts below concurrently holding that the Assistant Collector, 2nd Grade, Barnala is not the competent authority to decide the matter, which relates to the consolidation authorities. It is an admitted position that a mistake, if any, has occurred in recording the Khasra No. 1173 as 13 Kanals and 3 Marlas instead of 14 Kanals and 17 Marlas which was by the consolidation authorities. The order, thus, passed by the Assistant Collector, 2nd Grade, Barnala cannot confer any right or title upon the appellant-defendant, as has

been rightly held by the Courts below. The findings, as recorded by the Courts below, therefore, do not call for any interference.

4. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

5. In view of the above, finding no merit in the present appeal, the same stands dismissed.

C.M. No. 13139-C of 2010

In the light of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

November 28, 2015

pj