

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 2744 of 2011 (O&M)

Date of decision: 29.10.2015

Joga Singh

...APPELLANT

VS.

State of Haryana and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Jain, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division) Ellenabad dated 17.02.2011, vide which the suit for mandatory injunction filed by the appellant-plaintiff on the allegation that the plaintiff is the owner and in possession of the suit land measuring 30 Kanals 11 Marlas, as detailed in the head note of the plaint, situated at Village Kariwala, Tehsil Rania District Sirsa impugning Mutation No. 3667 sanctioned in favour of Jeet Singh since deceased on the basis of Civil Court decree bearing Civil Suit No. 1456 of 03.08.1995, has been dismissed, against which the appeal preferred stands dismissed by the Additional District Judge, Sirsa on 31.05.2011.

It is the contention of the learned counsel for the appellant that the findings recorded by the Courts below without taking into consideration the correct facts and circumstances and the evidence brought on record cannot be sustained. He contends that the Courts below have wrongly proceeded on the

assumption that the suit is not maintainable and is barred by Section 11 of the Code of Civil Procedure. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside.

This contention of the learned counsel for the appellant cannot be accepted as on going through the impugned judgments, the assertions made by the counsel for the appellants are found to be without any basis. The Courts below have rightly appreciated the pleadings and evidence brought on record and have returned findings basing them upon proper consideration thereof. The finding with regard to the suit being not maintainable and barred under Section 11 of the Code of Civil Procedure also is fully justified, which cannot be faulted with.

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 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.

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

October 29, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE