

RSA No.1260 of 2012 (O&M)

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

RSA No.1260 of 2012 (O&M)

**Date of Decision: October 15, 2015**

Jagir Singh

...Appellant

Versus

Swaran Singh & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Rajeshwar Singh, Advocate  
for the appellant.

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AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.3372-C of 2012

Application is allowed, as prayed for.

Exemption is granted from filing the certified copy of judgment and decree dated 30.08.2004 passed by the Civil Judge (Junior Division), Gurdaspur, subject to all just exceptions.

RSA No.1260 of 2012

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Gurdaspur, dated 30.08.2004, whereby, the suit of the respondent-plaintiffs for declaration to the effect that they are exclusive owners in possession of land measuring 21 Kanals and 2 Marlas, the details of the property have been mentioned in the headnote of the suit, as entered in the jamabandi for the year 1990-91, situated in village Hardhobathwala,

Hadbast No.338, Tehsil Gurdaspur and that the appellant-defendants have got no subsisting right, title or interest therein, with a consequential relief for permanent injunction restraining the appellant-defendants from interfering in their exclusive possession and ownership, stands decreed, against which, the appeal preferred by the appellant-defendant No.1 has been dismissed by the Additional District Judge, Gurdaspur, on 16.11.2011.

It is the contention of the learned counsel for the appellant that the Courts below have not properly appreciated the evidence which has been brought on record and even the evidence which has been produced by the respondent-plaintiffs that the jamabandi where, in Column No.9, 'Tabadla Kasht' has been mentioned. He contends that as per the said revenue record also, it is a mere exchange of land which was only for the purpose of cultivation and therefore, no title was ever exchanged between the parties. This being the position, the findings recorded 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 the evidence which has been brought on record by the defendants themselves indicates that after the exchange had taken place, most of the portion which has come in the possession of the appellant-defendant, has been sold by way of agreement to sell by one Harbhajan Singh, who is one of the co-sharers. Not only there has been possession handed over to the

persons with whom the agreement to sell has been entered into but they have been permitted to construct their pucca houses which are in existence for the last 18/20 years, as has been admitted in the cross-examination of respondents 7 to 14, 16 to 31, 34, 38 to 39 etc. which was recorded on 05.01.2001. This clearly establishes that the exchange was not merely for the purpose of cultivation as has been asserted but for the title as well, otherwise there was no reason as to why agreement could have been entered into and construction permitted on the said land.

Both the Courts below have returned concurrent findings which are based on proper appreciation of the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of evidence nor is there any perversity or illegality in the same. Further, no substantial question of law arises in the appeal which requires consideration of this Court.

The appeal, therefore, stands dismissed.

**October 15, 2015**

*Harish*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**