

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.912 of 2014 (O&M)
Date of Decision:- 04.05.2015.

Prem Singh

.....Appellant

Versus

Financial Commissioner (Appeals), Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: None for the appellant.

Mr. Aman Bahri, Additional A.G. Punjab.

Mr. Sherry K. Singla, Advocate for
respondent No.3.

SURYA KANT, J. (ORAL)

- 1.) No one appears on behalf of the appellant. On 13.01.2015 also, the appellant remained unrepresented. In these circumstances, we proceed to decide the case on merits.
- 2.) The appellant assails the order dated May 1, 2014 of dismissal of his writ petition by the learned Single Judge in which he challenged the orders passed by the Revenue Authorities in execution proceedings.
- 3.) The third respondent filed a suit for arrears of *chakota* amount as well as for possession of agricultural land measuring 33 *bighas* and 13

biswas against the appellant. The petition was allowed and a decree was passed by Assistant Collector, Ist Grade, Rajpura on 30.06.1976. The appeal was dismissed by the Collector on 24.10.1977. Those orders attained finality. Thereafter, the execution application was submitted before the Assistant Collector, Rajpura who issued warrant of possession for the entire land. However, possession of Khasra No.911/2/3 and 912 could not be delivered to the decree-holder as the executing agency reported that these two khasra numbers had been mortgaged with Phuman Singh (other than the appellant). The statement of the appellant that he had delivered possession of 24 *bighas* and 3 *biswas* was duly recorded. The execution application was later on dismissed in default.

4.) It appears that another execution application in respect of above-mentioned two khasra numbers measuring 8 *bighas* and 8 *biswas* was filed and a fresh warrant of possession was issued by Assistant Collector, Ist Grade on 30.06.1996. At this stage, the appellant claimed that a compromise had been effected between the parties whereunder the decree-holder, namely, respondent No.3 agreed not to execute the decree qua the land measuring 8 *bighas* and 8 *biswas*.

5.) Respondent No.3 disputed the claim of appellant and denied such a compromise. Admittedly no compromise deed in writing was brought on record before the Executing Court. No evidence in respect of any compromise was otherwise led. There was no entry of 'compromise' in revenue record also. The Executing Court, the Appellate Court and Revisional Authorities disbelieved the appellant's plea regarding compromise. It is in this backdrop that the learned Single Judge dismissed the writ petition, upholding the orders of the Revenue Authorities on the

premise that if the principals contained in the Code of Civil Procedure are to be applied in execution proceedings before the Revenue Court, in that case, the compromise deed ought to have been brought on record to show that the decree holder has given up his claim. Contrary to it, decree-holder has consistently taken a stand that no compromise ever took place. It, thus, appears that the appellant has been able to retain possession of the decreed property through one or the other dilated tactics.

6.) That apart, the question raised by the appellant is purely a question of fact which he has failed to prove.

7.) In these circumstances, no interference with the orders passed by the Revenue Authorities or the learned Single Judge is called for.

8.) Dismissed.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

May 04, 2015.

sandeep sethi