

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1548 of 2013 (O&M)

Date of Decision: February 16, 2015

The Kandhala Sheikhan Co-operative Agriculture Service Society,
Kandhala Sheikhan, Tehsil Dasuya, District Hoshiarpur

...Appellant

Versus

Gurudwara Deh Sheikhan Village Kandhali Naurangpur, Tehsil and District
Hoshiarpur

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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: Mr.Sharad Aggarwal, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.4156-C of 2013

Allowed. Exemption granted from filing certified copy of
judgment and decree dated 8.2.2010.

CM stands disposed of.

CM No.4157-C of 2013

For the reasons mentioned in the application, which is
supported by an affidavit, delay of 16 days in re-filing the appeal is
condoned.

CM stands disposed of.

RSA No.1548 of 2013

This is a Regular Second Appeal at the instance of the

appellant-defendant No.1 against the judgment and decree of the trial Court dated 8.2.2010, whereby the trial Court has partly decreed the suit of the respondent-plaintiff and directed that mutation Nos.2680 and 2877 in respect of land measuring 1 kanal 3 marlas, contained in khewat No.465, khatoni No.556, khasra No.491(1-3), as per jamabandi for the year 2003-04 being wrong, illegal and void, be cancelled and the revenue entries in jamabandi for the year 1973-74, till date, have been held to be incorrect and liable to be corrected. The trial Court has further restrained the defendants from demolishing the building of Gurudwara Sahib, which is situated in Village Kandhali Naurangpur, HB No.35, Tehsil Dasuya, District Hoshiarpur for all times to come.

The appeal filed by the appellant-defendant against the aforementioned judgment and decree, had been dismissed by the Lower Appellate Court.

Mr.Sharad Aggarwal, learned counsel appearing for the appellant-defendant, in support of his grounds of appeal, submits that both the Courts below have committed an illegality in partly decreeing the suit of the respondent-plaintiff as the respondent-plaintiff has failed to prove the ownership of the property. The Courts below have also failed to appreciate that the Gram Panchayat was the owner of the suit land and, therefore, could not have ordered/directed the revenue authorities to correct the mutation, which was not in the name of the appellant-defendant long time back.

I am afraid, the aforementioned argument of the learned counsel for the appellant-defendant is devoid of merit for the reason that the appellant-defendant has been restrained from interfering in the

possession of the respondent-plaintiff and on the basis of the oral and documentary evidence, i.e., Ex.P1 jamabandi, it has been found that the mutation in favour of the appellant-defendant had wrongly been effected. As per jamabandi, it is revealed that the Gram Panchayat was shown to be the owner of the property. Be that as it may, since the ownership of the property had not been decided by the Courts below and only the mutation has been directed to be corrected on the basis of the appreciation of the oral and documentary evidence, there is no illegality and perversity in the findings of both the Courts below. No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

February 16, 2015
ramesh

(AMIT RAWAL)
JUDGE