

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4201 of 2013 (O&M)

Date of Decision.14.08.2015

Gurdeep Kaur

.....Appellant

Versus

Seeto and others

.....Respondents

Present: Mr. P.N. Aggarwal, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Delay of 202 days in refiling the appeal is condoned.
2. The second appeal is at the instance of the plaintiff who brought a suit for injunction on the basis of a Will executed by her father-in-law Jarnail Singh bequeathing his non-occupancy tenancy right in her favour. The plaintiff was relying on the entries in khasra girdawari for the period 1970-71, 1979-80 and 1984-85 where Jarnail Singh had been stated to be the occupancy tenant. For the jamabandi in the year 1979-80 Jarnail Singh's name had been scored off and his brother Karnail Singh's name had come about and this was stated to be handy work of the brother Karnail Singh. But for subsequent jamabandi years from the year 1989-90, 1994-95 and 1999-2000 upto the year when the suit was filed in the year 2006, the entries stood in the name of the brother Karnail Singh who was the defendant. Jarnail Singh himself had died only in the year 2004. The plaintiff's contention was that Jarnail

Singh alone was in possession of the property and the brother-defendant had fraudulently brought about a change in the entry. It was a suit for bare relief of injunction and the Court found that the revenue entries that showed the name of the defendant could not be easily doubted and did not allow for the plaintiff's possession to be inferred under such a situation. The suit for injunction was, therefore, dismissed. The appellate court affirmed the same.

3. Learned counsel appearing on behalf of the appellant states that the revenue entries have an important bearing for consideration of possession and if it stood in the name of a particular person, mutation must follow a particular procedure prescribed under Punjab Land Revenue Act. The contention is that if Jarnail Singh's name was found till the year 1984-85, a change in the name for the subsequent jamabandies onwards must be shown to have been done in accordance with law. I will find the whole argument as topsy turvy, for, it was fundamental position that the revenue entries must have credence and the revenue entries stand in the name of the defendant. The plaintiff has long way to go to explain how the entry was wrong. If the plaintiff's reliance would be only on entry made in the year 1984-85, he would show that the mutation had been effected in the name of the defendant without following due procedure. The plaintiff must take the burden on himself showing that the procedure under law was not followed. It must be noticed that the suit was not immediately filed after change in entry. The change in entry had come about even in the year 1989-90 and Jarnail Singh had lived for nearly 15 years subsequent to the change of name in the entry. He has not taken any steps during his life time to

challenge the mutation that had taken place. I would only take a presumption of what is available under Section 114 of the Indian Evidence that official act was properly done. The burden was heavily on the plaintiff to show that the entry was wrongly made and it had not been done without the knowledge of Jarnail Singh. I find no reason for interference in the second appeal.

4. The second appeal is dismissed finding no substantial question of law for consideration.

(K. KANNAN)
JUDGE

August 14, 2015
Pankaj*