

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

106

**RSA-532-2013 (O&M)
Date of Decision-20.10.2015**

RAMESHWAR

Appellant

Versus

GRAM PANCHAYAT VILLAGE FARIDPUR

Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

RAJ MOHAN SINGH, J. (ORAL)

[1]. Plaintiff is in second appeal in a suit for permanent injunction seeking restraint order against the defendant from interfering in the peaceful possession of the plaintiff from 44 kanals of land which has been depicted as *Jumla Mustarka Malkan*.

[2]. It is an admitted case of the plaintiff that the plaintiff has already moved an application for correction of entries of khasra girdawari before Assistant Collector Second Grade. In the written statement the possession of the plaintiff has been specifically denied by the Gram Panchayat and it has been asserted that defendant is in possession of the land in question. The suit land was given in open auction to one Ram Mehar on 04.05.2007. Khasra Girdawari is in the name of the defendant.

[3]. Appellate Court decided issue No.1 against the plaintiff and held the plaintiff to be not in possession by way of any cogent evidence viz. revenue record. Suit was dismissed on the basis of findings recorded under issue No.1. Lower Appellate Court also affirmed the findings.

[4]. Even if the land is shown to be *Bachat Land* and meant for re-distribution amongst the shareholders on the basis of pro rata cut, the appellant being the plaintiff has to stand on his own legs by

way of adducing cogent evidence to show his possession over the property in question.

[5]. Admittedly, the plaintiff had moved an application for correction of khasra girdawari, which is stated to be pending. There is no correction order in his favour finding him to be in possession of the property in question. Even if it is presumed that the land is owned by *Jumla Mustarka Malkan* body in the village being *Bachat Land*, the same does not show factum of possession of the appellant-plaintiff over the land in question. Even the plaintiff has failed to place on record any evidence showing himself one of the proprietor of *Jumla Mustarka Malkan* or that his forefathers had contributed some land in order to carve out the land to be utilized for a common purpose.

[6]. Both the Courts below on the basis of evidence led before them have concurrently held that the evidence led by the plaintiff is deficient in terms of proving his possession being one of the proprietor of Malkan body.

[7]. In view of aforesaid, the said findings recorded by the Courts below cannot be held to be perverse or the result of misreading of evidence by any stretch of imagination.

[8]. No law point worth consideration is involved. Consequently, this appeal is dismissed.

20.10.2015

Prince

(RAJ MOHAN SINGH)
JUDGE