

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

115

Regular Second Appeal No.2703 of 2015 (O&M)
Date of Decision: December 01, 2015

Mahinder Singh represented by his LR Ajaib Singh

...Appellant

Versus

Kartar Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.S. Mamli, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.6808-C of 2015

Prayer in this application is for condonation of delay of 27 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of the appellant-Ajaib Singh, the present
application is allowed.

Delay of 27 days in filing the appeal stands condoned.

RSA No.2703 of 2015

Challenge in this appeal is to the judgment and decree passed
by the Civil Judge (Junior Division), Yamuna Nagar at Jagadhri, dated
21.10.2011, by which the suit filed by respondent No.1-plaintiff for
permanent injunction restraining the appellant-defendant from interfering in
the actual, peaceful and physical ownership and possession of the property
measuring 2 kanals 16 marlas, detailed in the suit, situated in village Milak
Majra, Hadbast No.368, Sub Tehsil Mustafabad, Tehsil Jagadhri, District
Yamuna Nagar, as per jamabandi for the year 2003-2004, stands decreed,
appeal against which preferred by the appellant-defendant stands dismissed

by the Additional District Judge, Yamuna Nagar at Jagadhri, on 17.11.2014.

2. It is the contention of learned counsel for the appellant-defendant that as per the order dated 09.11.2010 Exhibit D-1 of Collector, the khasra girdawaris have rightly been corrected and the ownership and possession over the property has been corrected, even the appeal preferred against the said order has been dismissed by the Collector. He contends that the revenue records clearly depicted that the appellant-defendant was owner in possession of the land in dispute and, therefore, the injunction as granted by the Courts below, cannot sustain. He also challenges the findings recorded by the Courts below with regard to compromise, which is alleged to have been entered into during the pendency of the suit, the part of which was required to be complied with on the part of the respondent No.1-plaintiff having not been complied with, the same cannot be said to be binding upon the appellant-defendant. He accordingly prays that the judgment and decree passed by the Courts below deserve to be set aside and the suit of the respondent No.1-plaintiff dismissed.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned judgments but do not find any force in the arguments, as has been raised by the counsel.

4. It is not in dispute that the corrections which have come into effect in the revenue record are subsequent to the date when the suit was filed i.e. 14.10.2005, whereas the order of the correction of the revenue record is dated 09.11.2010 Exhibit D-1. The Courts below, therefore, have rightly ignored the said aspect and accepted the pleadings as it existed on the date when the suit was filed. It has come on record that the suit was filed

on 14.10.2005, where it was specifically stated that the plaintiff had sown the crop of sarso over the suit land. In the written statement, the stand of the appellant-defendant was that he had sown sugarcane crop, which was standing on the suit land. The rabi crop for the year 2005 as per the khasra girdawari revealed that in fact the crop of sarso has been sown over the suit property and not the sugarcane which clearly establishes that the possession was that of the respondent No.1-plaintiff and not of the appellant-defendant. That apart, the compromise Exhibit CX which has been entered into between the parties during the pendency of the suit, has been duly proved by the respondent No.1-plaintiff and the assertion of the appellant-defendant that the said compromise was based upon fraud and misrepresentation, has rightly been found to be without basis. The findings, thus, recorded by the Courts below on this aspect also cannot be faulted with as the same are based upon proper appreciation of the pleadings and the evidence brought on record.

5. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record and the same cannot be interfered with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.6809-C of 2015, stands disposed of as infructuous.

December 01, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**