

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

**RSA No.4826 of 2014 (O&M)
Date of decision: 25.02.2015**

Harbhajan Singh

... Appellant

Vs.

Gurnam Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. S.K.Jain, Advocate
for the appellant.

AMIT RAWAL J. (ORAL)

This regular second appeal at the instance of appellant-plaintiff is directed against the judgment and decree of trial Court whereby the suit for possession of the property marked 'ABCD' in the site plan on the premise that he is owner of the land as Khewatdar has been dismissed and appeal filed against the judgment and decree of the trial Court has also been dismissed.

The appellant-plaintiff is the Lambardar of the village and the property in dispute is Abadi Deh. The suit of the appellant-plaintiff was contested by the defendant-respondent by taking a plea that it was barred as per Section 13 of the Punjab Village Common Lands

(Regulation) Act 1961. He further submitted he has been in possession of the suit property for the last 55 years. The aforementioned averment culled out in the written statement was not rebutted by filing replication. Respondent made an effort to establish his claim by bringing on record Ex.P1- report of Tehsildar and Ex.P2- copy of Istemal.

The trial Court on the basis of the oral and documentary evidence, dismissed the suit and appeal filed against the aforementioned judgment and decree was also dismissed by the lower Appellate Court. In these circumstances, the present regular second appeal has been filed.

Mr. S.K.Jain, learned counsel appearing on behalf of the appellant-plaintiff, in support of his grounds of appeal, submitted that both the Courts below have committed illegality and perversity in dismissing the suit as the documentary evidence brought on record has been misread. He further submitted that appellant-plaintiff has proved on record that he had been Khewatdar.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below and am of the view that the present appeal is liable to be dismissed on the following grounds:-

It has come on record that suit property is Abadi Deh. Appellant-plaintiff has failed to prove on record that he is only Khewatdar of the village. In the absence of any evidence on record,

he could not claim the possession of the property marked as 'ABCD' shown in the site plan.

On the contrary, respondent-defendant brought on record documents Ex.D1 to Ex.D54 to show that he has been in possession of the suit land. Since the property situated in Abadi Deh, the fact remains that there was vagueness in the pleadings as to the nature of the property ie. either Shamlat Deh or Abadi Deh. In the absence of the specific pleading, no relief could have been granted by the Court while rendering a finding as the property being in Shamlat Deh or Abadi Deh. No such evidence has been brought on record by the appellant-plaintiff in this regard.

In view of what has been observed above, there is no illegality and perversity in the findings rendered by the Courts below, much less, no substantial question of law arises to be adjudicated by this Court.

No other argument has been raised.

Accordingly, the appeal is dismissed.

There shall be no order as to costs.

(AMIT RAWAL)
JUDGE

February 25, 2015
savita