

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

RSA No.1705 of 1990

Date of decision: September 01, 2016

Gurdial Singh

.....Appellant

Versus

1. Gurdarshan Singh alias Darshan Singh (dead) through LRs
2. Harnand Singh

..... Respondents

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

Present : Mr. Dinesh Sharma, Advocate for
Mr. Harbhagwan Singh, Senior Advocate
for the appellant.

None for the respondents.

GURMIT RAM, J.

This appeal is preferred by abovesaid appellant, who was plaintiff before the trial Court, for setting aside the impugned judgments and decrees passed by both the Courts below with a further prayer to decree his suit by accepting this appeal.

2. The case of the plaintiff before the trial Court in brief was that he was in cultivating possession of the land in dispute measuring 40 kanals as detailed in the headnote of the plaint as a tenant, whereas defendants were owners of this land. Since the defendants were threatening to dispossess him from the suit land forcibly, so he had to file the instant suit.

3. Defendants in their written statement admitted that they are owners of the land in dispute. It is further their case that plaintiff is neither their tenant nor

he is in possession of the land in dispute. Rather they took the plea that they themselves are cultivating the land in dispute being its owners.

4. From the pleadings of the parties, following issues were framed by the learned trial Court:-

i. Whether the plaintiff is in possession of the suit land as a tenant under the defendants? OPP

ii. Whether the suit is not maintainable in the present form? OPD

iii. Whether the plaintiff has no locus-standi to file the present suit? OPD

iv. Whether the defendants are entitled to special costs under Section 35-A of the CPC? OPD

v. Relief.

The learned trial Court (Sub Judge Ist Class, Dabwali) recorded findings on issues No.1 to 3 against the plaintiff and dismissed his suit vide judgment and decree dated 21.02.1990. The plaintiff preferred an appeal against this judgment and decree which was also dismissed by the Court of learned Additional District Judge, Sirsa vide judgment and decree dated 08.05.1990.

5. The plaintiff being not satisfied with the judgments and decrees passed by both the Courts below has come up before this Court vide the instant appeal, notice of which was given to the respondents. Record of learned both the Courts below was also requisitioned.

6. Learned counsel for the appellant was heard. Record was also perused with his able assistance.

7. The learned counsel for the appellant has contended that when this suit was filed before the trial Court, then at that time appellant-herein

(plaintiff) was in cultivating possession of the land in dispute as a tenant under the defendants. In support of his contention, he has referred to copies of *Jamabandies* Ex.P1 and Ex.P2 for the year 1985-86, copies of *Khasra Girdawries* Ex.P3 and Ex.P4 for the year *Kharif* 1986 to *Rabi* 1987 and copies of *Khasra Girdawries* Ex.P6 and Ex.P7 for the years *Kharif* 1987 to *Kharif* 1989, besides the oral statement of plaintiff as PW-1.

8. Then the defendants, besides, leading their oral evidence also brought on record several documents Ex.D1 to Ex.D24. Documents Ex.D6, Ex.D7, Ex.D13 and Ex.D14 are found to be relevant to decide the above point in controversy. The copy of the order Ex.D6 dated 30.09.1987 shows that respondent No.2-herein (Harnand Singh) filed an application for the correction of *Khasra Girdwari* before the Assistant Collector IInd Grade, Dabwali, in respect of land bearing Rectangle No.52 Killa No.3 (8-0), 4/1 (5-16) situated in village Panniwala which was accepted and disposed of vide this order. Then copy of order Ex.D7 dated 30.09.1987 shows that respondent No.1-herein/Gurdarshan Singh filed an application before Assistant Collector IInd Grade, Dabwali for the correction of *Khasra Girdawri* in respect of land bearing Rectangle No.52, *Killa* No.4/2 (2-4), 5 (8-0), 6 (8-0) and 7 (8-0) situated in village Panniwala which was also accepted and disposed of vide this order. In both the applications for correction of *Khasra Girdawries*, the appellant-herein was the respondent. Being aggrieved from these orders, the appellant-herein preferred the appeals before the concerned Revenue Authority, which were dismissed by the Court of Assistant Collector Ist Grade, Sirsa vide orders Ex.D13 and Ex.D14, both dated 10.05.1988. He did not file any further appeal against orders Ex.D13 and Ex.D14, so meaning thereby the findings of the First

Revenue Court got the finality.

9. So in the light of above discussed orders Ex.D6, Ex.D7, Ex.D13 and Ex.D14, it is amply clear that the defendants were trying to get the possession of the suit land from the plaintiff in due course of law and not forcibly. Admittedly, they were the owners of the land in dispute at that time. *Khasra Girdwaries* of the land in dispute had also been corrected in their favour by the competent Revenue Courts. So there can be no case in favour of the appellant-herein (plaintiff) to say that respondents-herein (defendants) were threatening to dispossess him from the land in dispute forcibly. Then it is also settled proposition of law as laid down by a Division Bench of this Court in ***Suhag Wanti vs. Commissioner, Patiala Division, Patiala and others, 2013(1) CivCC 100*** that Revenue Authority has a jurisdiction to change the entries in the *Khasra Girdawries* after inspecting the spot during the pendency of the suit, though the same may not be binding upon Civil Court.

10. In the light of above discussion, no merit is found in this appeal. Hence, it stands dismissed and disposed of accordingly.

September 01, 2016

Gaurav Sorot

**(GURMIT RAM)
JUDGE**

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| 1. Whether reportable? | No / Yes |
| 2. Whether speaking / reasoned? | No / Yes |