

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.294 of 2009 (O&M)

Date of Decision: December 01, 2016

Kartar Singh & others

...Appellants

Versus

Chand Kaur (deceased through L.Rs) and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Kanwaljit Singh, Senior Advocate with
Ms.Gurpreet Kaur, Advocate,
for the appellants.

Mr.G.S.Sidhu, Advocate,
for respondent No.3.

Mr.J.S.Sodhi, Advocate for
Mr.L.S.Sidhu, Advocate,
for respondent No.20.

Mr.Surinder Garg, Advocate,
for respondent Nos.23 to 30, 32 to 37, 39, 42 & L.Rs of
respondent Nos.21, 31 & 41.

AMIT RAWAL, J. (Oral)

This appeal has arisen from the adjudication of the civil suit
filed by the appellant-plaintiffs claiming the following relief:-

*“Suit for declaration to the effect that the plaintiffs No.1 and 2
and defendant No.46 are owners in possession of land
measuring 131 kanals having Rectangle and Killa Nos.
30/13/1/4-8, 58//20/1/5-8, 58//18/2/2/0-8, 19 Min/1-2, 22/1/3-6,
23/1/1/0-3), 25/1/7-12, 58//5/1/1-10, 30//6/2/1/2-4, 48//2/1/3-
17, 12//16/1/3-0, 25//2/1-18, 25//3/0-19, 58//19 Min/6-18,
57//15 Min/3-8, 30//6/1/2/1-16, 22//3 Min/5-7, 4/1/4-1, 7/2/4-8,
8 Min/5-0, 58//11 Min/5-0), 12 Min/5-0, 13/1 Min/3-9, 10/2/0-*

12, 22/2/2/6-8, 3 Min/2-0, 8 Min/3-0, 9/1/7-0, 58//8/2/2/1-9, 9/2/2-18, 10/2/2-6, 11 Min/3-0, 22 Min/3-0, 13/1 Min/1-0 and out of land measuring 63 Kanals-4 Marlas, Rectangle/Killa Nos. 243//34/0-3, 11//22/7-11, 23/1/1/0-8, 11//18/2/1-10, 23/1/2/2-10, 58//17/2/2/1-12, 18/1/1/2/1-16, 18/1/2/1-6, 23/1/2/2/0-13, 11//20/2/1-2, 21/7-11, 58//23/3/0-12, 58//13/2/3-8, 14/1/4-13, 22//1/6-19, 2/1/0-18, 9/2/0-4, 10/1/1-10, 11//18/2/1/1-11, 19/1/5-12, 11//19/2/2-8, 11//23/1/1/2/2-10, 18/2/2/1-10, 23/1/2/1/0-13, 51//18/1/1/1-16, 23/1/2/1/0-13, 51//18/1/1/1-16, 18/2/1/1/1-16, 17/2/1/1-12, situated at Kotra, to the extent of $\frac{1}{2}$ share measuring 19 Kanals-2 Marlas, bearing Rectangle and Killa No.11//18/2 Min/1-11, 19/8-0, 22//1/6-19, 2/1/0-18, 9/2/0-4, 10/1/1-10, vide registered Sale Deed dated 10.05.67 executed by Sunder Dass S/O Mangal Dass, and land measuring 5 Kanals-17 Marlas bearing Rectangle and Killa No.12//25/2//1-18, 16/1/3-0, 25/3/0-19, situated at Kotra, vide registered Sale Deed dated 06.07.70 executed by Harnek Singh, Tek Singh in favour of Nand Singh S/O Santa Singh, father of plaintiffs No.3 to 8 and has since died; and land measuring 43 Kanals-7 Marlas, bearing Rectangle & Killa Nos.11//18/2/3/1-10, 23/1/2/2-0, 58//17/2/2/1-12, 18/1/1/2/1-16, 18/1/2/1-16, 23/1/2/2/0-13, 11//20/2/1-2, 25/7-11, 58//23/3/0-12, 58//13/2/3-8, 14/1/4-13, 22//1/6-19, 2/1/0-18, 9/2/0-4, 10/1/1-10, 11//18/2/1/1-11, 19/1/5-12, to the extent of $\frac{1}{8}$ share, vide registered Sale Deed dated 25.01.1993, registered on 27.01.93 executed by Ami Chand in favour of plaintiffs No.9 to 11. The defendants No.1 to 5 have no right or concern with this land. The partition of land dated 11.12.98, got executed by defendants No.1 to 5 vide File No.87-R-1 dated 22.08.97 in the absence of the plaintiffs, is illegal, against the facts and liable to be set aside and further, the mutation entered on the basis of partition dated 12.11.98 in favour of the defendants No.1 to 5 and behind the back of the plaintiffs, is malafide and has no adverse effect on the rights of the plaintiffs and the same is also liable to be set-

aside.”

Both the Courts below have non-suited the plaintiffs on the ground of jurisdiction as the remedy against the order dated 11.12.1998 and the consequential effect of mutation entered on the basis of the partition lied elsewhere, in essence any order passed by the Revenue Court is either revisable or appealable as per the prevalent provisions of the law.

Mr.Kanwaljit Singh, learned Senior Counsel assisted by Ms.Gurpreet Kaur, Advocate representing the appellant-plaintiffs submits that his clients are not averse in case they are given a chance to assail the aforementioned orders before the competent Court in accordance with law, provided the period spent in instituting the suit, which was filed way back in 1999, may not come in their way.

Mr.Surinder Garg, Mr.G.S.Sidhu and Mr.J.S.Sodhi, Advocate for Mr.L.S.Sidhu, learned counsel representing the respondents submit that there is no illegality and perversity in the findings. The appellant-plaintiffs were aware of the rules prevalent at the relevant time.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the plaintiffs were not properly advised to avail the remedy in accordance with law as for seeking partition of an agricultural land, remedy lied under Section 158 of the Punjab Land Revenue Act and any order passed is assailable in the competent court of law. The consequential effect of mutation has already been passed. The remedy for the plaintiffs was to file a revision or appeal as per the Punjab Land Revenue Act, therefore, the period already spent in the aforementioned proceedings is condoned as per the provisions of Section 14 of the Limitation Act, provided the remedy is availed within one month

Regular Second Appeal No.294 of 2009 (O&M)

{ 4 }

from the date of receipt of certified copy of the order.

The status-quo order granted on 16.1.2009 shall be valid for one month, i.e., till the availing of the remedy.

Appeal stands disposed of.

December 01, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No