

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

**R.S.A.No.1631 of 2010 (O&M)**

**Date of Decision: February 23, 2016**

**The Punjab State through the Chief Secretary, Punjab Government,  
Chandigarh & another**

**...Appellants**

**Versus**

**Sinder Puri Chela Rudhar Puri, Mohatmin Dera,Dhanaula**

**...Respondent**

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

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

**Present: Mr.Piyush Bansal, DAG, Punjab,  
for the appellants.**

**Mr.Jai Bhagwan, Advocate,  
for the respondent.**

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**AMIT RAWAL, J. (Oral)**

The present Regular Second Appeal, at the instance of the appellant-defendants, is directed against the judgments and decrees of both the Courts below, whereby the suit filed by the respondent-plaintiff for declaration seeking correction in the column of ownership in the revenue record, has been decreed.

Mr.Piyush Bansal, learned Deputy Advocate General, Punjab appearing for the appellant-State submits that both the Courts below have committed illegality and perversity in granting declaration with regard to the correction of the revenue record, whereas the property was in the name of the Provincial Government. The respondent-plaintiff has not been able to

prove the possession for more than thirty years and, therefore, injunction could not have been granted. The suit was not maintainable as no notice under Section 80 of the Civil Procedure Code was served upon the State. The respondent-plaintiff never came into possession of the land in dispute, much less the possession of the respondent-plaintiff was also denied, but these facts have not been taken into consideration by the trial Court. He further submits that in column No.4, the Provincial Government was shown as owner, which was receiving the rent from the tenants and this fact was in the knowledge of the respondent-plaintiff and, thus, prays for setting-aside of the judgments and decrees, much less the fact that the substantial question of law arises for determination.

Mr.Jai Bhagwan, learned counsel appearing on behalf of the respondent-plaintiff submits that the declaration was sought on the ground that the suit property situated in the revenue estate of Village Dhanaula, Tehsil Barnala, District Sangrur was dedicated for religious purposes, inasmuch as that Kanshi Puri Sadh Goshai follower of Budh Puri, resident of Village Dhanaula in erstwhile Nabha State was holding land measuring 5 bighas 19 biswas as Muafidar, which was granted to him by Ijlas Khas Nabha for maintaining a temple as Dharamath and mutation in this regard was sanctioned long time back. This was specifically mentioned in the register of Muafi, copy of which was attached with the suit.

He further submits that on the merger of Nabha State with Pepsu, Provincial Government was entered as owner, whereas Rudarpuri was entered as Muafidar in column No.5 of the jamabandi of village Dhanaula. During consolidation, land measuring 9 kanals 18 marlas bearing khasra No.1197 was carved out in lieu of land measuring 5 bighas

19 biswas. On the demise of Rudar Puri follower of Khasi Puri, he was succeeded by Sinder Puri. Mutation No.6304 was sanctioned to this effect.

He further submits that both the Courts below, in view of the provisions of Pepsu Occupancy Tenancy Vesting of Proprietary Act and Section 3 of the Punjab Occupancy Tenant Vesting and Proprietary Act granted the injunction. The concurrent findings of facts cannot be interfered with unless and until substantial question of law arises for determination. He further submits that same controversy arose and the appeal filed by the State bearing Regular Second Appeal No.2831 of 2005 has been dismissed by this Court vide order dated 3.2.2010, which has attained finality upto the Hon'ble Supreme Court.

I have heard the learned counsel for the parties and appraised the paper book and am of the view that there is no merit in the appeal for the reason that on consideration of the matter, both the Courts below have granted decree on the basis of the appreciation of oral and documentary evidence. The operative part of the judgment of the trial Court dealing with the documentary evidence, reads thus:-

*“7. In order to prove lis, the plaintiffs examined PW-1 Khem Chand, who tendered his affidavit Ex.PW-1/A and plaintiff Sinder Puri himself came into the witness box as PW-2 and tendered his affidavit Ex.PW-2/A. Thereafter the Ld.Counsel for the plaintiff tendered into evidence document i.e. postal receipt Ex.P-2 to Ex.P-6, copies of jamabandies Ex.P-7 to Ex.P-12, copy of judgment dt.23.2.1974, Ex.P-13, copy of decree sheet dt.23.2.1974 Ex.P-14, copy of judgment dt.25.1.1977, Ex.P-15, copy of decree sheet dt.25.1.1977, Ex.P-16, copy of khatauni Istemal Ex.P-17, copy of khatauni pamish Ex.P-18, copy of resolution Ex.P-19, copy of Hakdarbar Ex.P-20, copy of Muafi Atat pension of village Dhanaula Ex.P-21,*

*copy of khatauni for the year 1952 BK to 1985 of village Dhanaula Ex.P-22, copy of Naksha Bajub Al Arj of village Dhanaula Ex.P-23, copy of order dt.20.1.1993, Ex.P-24, copy of order dated 21.8.1995, Ex.P-25, copies of jamabandi Ex.P-26 to Ex.P-27, copy of mutation No.6304 Ex.P-23, copy of order dt.18.9.1996 passed by the Hon'ble High Court Ex.P-29 and copy of order dt.6.1.1997, passed by the Hon'ble High Court Ex.P-3) and closed the evidence of plaintiff.”*

On the contrary, the appellant-defendants examined only Naib Tehsildar, who tendered his affidavit Ex.DA to rebut the evidence aforementioned.

On the basis of the oral and documentary evidence, the trial Court found that as per mutation No.6304, Ex.P-8, the property was also shown in favour of the plaintiff after the death of Rudar Puri. Initially, the revenue record depicted that Rudar Puri was the Muafidar of the property in dispute and thereafter plaintiff Sinder Puri had become owner of the property. Ex.P-23 is the Naksha Bajub Al Arj of Village Dhanaula. Copy of khatauni for the year 1952 BK to 1958 of Village Dhanaula, Ex.P-22, shows that Kashi Ram was in possession of the land, which was given to him in Muafi. As per the record of the consolidation, the land in dispute had been carved out in the consolidation, which was initially given to Muafi to Kashi Puri. Copies of khatauni Istemal, Ex.P-17, and khatauni Pamaish Ex.P-18 and various other documents show that the plaintiff was Muafidar of the property in dispute. Even the witness of the defendants DW-1 Naib Tehsildar also admitted this fact.

Keeping in view the aforementioned facts, the Court granted declaration by decreeing the suit for correction of column No.4 of the jamabandi and as well as in column No.5 as Khud Kashat, in essence, it was

directed that in column No.4 of the jamabandi, plaintiff's name should be shown as owner by deleting his name as Muafidar from column No.5. The aforementioned judgments and decrees are based upon the oral and documentary evidence. The State has not been able to rebut and counter the same.

Accordingly, I find no illegality and perversity in the impugned judgments and decrees of the Courts below. The same are upheld.

The appeal is dismissed.

**February 23, 2016**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**