

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

DATE OF DECISION: JANUARY 18, 2016

(1) C.M. Nos.11345 C of 2012 & 442 C of 2016 and
R.S.A. No.4136 of 2012

Ram Singh

.....Appellant

VERSUS

Nahar Singh and others

....Respondents

(2) C.M. No.11396 C of 2012 and
R.S.A. No.4154 of 2012

Ram Singh

.....Appellant

VERSUS

Nahar Singh and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. M. L. Sharma, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.442 C of 2016 in R.S.A. No.4136 of 2012

Application is allowed.

Site plan, Annexure A-1 (colly), is taken on record.

**C.M. No.11345 C of 2012 & R.S.A No.4136 of 2012 &
C.M. No.11396 C of 2012 & R.S.A. No.4154 of 2012**

Both Regular Second Appeal Nos.4136 and 4154 of 2012 have arisen out of the same judgements and decree passed by the Courts below, thus, the same are being decided by this common order. For disposal of these appeals, the facts are being taken from Regular Second Appeal No.4136 of 2012.

Challenge in this appeal is to the judgement and decree dated 15.11.2010 passed by the Civil Judge (Junior Division), Samrala, whereby the suit for permanent injunction restraining the appellant-defendant to encroach upon the land marked as ABC in the attached site plan shown in the read colour measuring 0K-4M illegally, forcibly and without due course of law as detailed in the head note of the suit as per jamabandi for the year 1997-98 situated in Village Sangatpura, Tehsil Samrala, District Ludhiana, stands decreed, appeal against which preferred by the appellant-defendant dismissed by the Additional District Judge, Ludhiana, on 23.05.2012.

It is the contention of learned counsel for the appellant that as per the pleadings and the evidence brought on record, the appellant-defendant is entitled to 2 kanals and 9 marlas of land in Khasra No.15/1 of Rectangle No.10, adjoining to southern side of Khasra No.10//15/2 bearing Khewat No.22, Khatauni No.35 in view of the exchange, which has taken place between the predecessor-in-interest of the parties, namely, Kartar Singh, father of the appellant-defendant and Karora Singh, father of the respondent-plaintiffs, on the basis of which mutation was sanctioned on 12.07.1967. He asserts that as per the said mutation, actually 2 kanals and 9 marlas of land has only been given in Khasra No.15/1 and the findings as recorded by the Courts below that it is 2 kanals and 13 marlas is incorrect.

Lastly, he contends that he has no difficulty with regard to the findings of the Courts below, provided land measuring 2 kanals and 9 marlas, which has been given to him in exchange in Khasra No.15/1 is given to him.

I have considered the submissions made by learned counsel for the appellant and with his able assistance have gone through the impugned judgements.

The facts in the present case are not in dispute and the only dispute appears to be with regard to the area as contained in Khasra No.15/1, which, according to the respondent-plaintiffs is 2 kanals and 13 marlas whereas as per the appellant-defendant it is 2 kanals and 9 marlas. The Courts below have threadbare gone into this dispute and while correctly understanding the same, have come to the conclusion that in mutation No.879 dated 12.07.1967, the field map, as was drawn on the reverse side of the mutation, is not correct and an observation has been made that it needs to be corrected so that the land as contained in Khasra No.15/1 should measure 2 kanals and 9 marlas.

In the light of the clear findings recorded by the courts below, the apprehension of the appellant-defendant that he would be deprived of his share of 2 kanals and 9 marlas of land as entered in the mutation dated 12.07.1967 appears to be misplaced. It is apparent from the judgements and decree passed by the Courts below that the entitlement of the appellant-defendant to an area of 2 kanals and 9 marlas in Khasra No.15/1 has not been touched. If the area is in excess than 2 kanals and 9 marlas, the same has to go to the share of the respondent-plaintiffs.

Thus, both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by

the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in both the appeals, the same stand dismissed.

Since both the appeals stands dismissed, C.M. No.11345 C of 2012 in R.S.A. No.4136 of 2012 and C.M. No.11396 C of 2012 in R.S.A. No.4154 of 2012 for issuance of ad-interim injunction restraining the respondents from interfering in the peaceful possession over the suit land are also dismissed.

**January 18, 2016
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**(AUGUSTINE GEORGE MASIH)
JUDGE**