

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

**RSA-452-2012 (O&M)
Date of decision : 22.09.2016**

Gurmail Singh and another

... Appellants

Versus

Ujagar Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Puneet Jindal, Senior Advocate with
Mr. Varun Goyal, Advocate
for the appellant(s).

Mr. Aman Bahri, Advocate
for respondent Nos.7, 8, 11 & 12.

AMIT RAWAL, J. (ORAL)

The appellants-plaintiffs are aggrieved of the concurrent findings of fact and law, whereby the suit for declaration to the effect that he is owner and in possession of the land measuring 4 marals comprising in K/K No.49/75 and Khasra No.20/21/8 (0-4), situated in the area of Village Nawan Pind Khalewal, Tehsil Shahkot, District Jalandhar, as per the entry reflected in the jamabandi for the year 1986-87 and 1991-92, with all rights pertaining to the land and consequential relief of permanent injunction, has been dismissed by both the Courts below.

Mr. Puneet Jindal, learned Senior Counsel assisted by Mr. Varun Goyal, learned counsel appearing on behalf of the appellants-plaintiffs submits that the appellants-plaintiffs as per the jamabandi,

aforementioned had been shown to be in cultivating possession of the aforementioned suit land. The Patwari connived with the respondents-defendants by making entry in the Farad Badar No.2 dated 28.11.1996 and it is, in this backdrop of the matter, the suit, aforementioned, was filed. The farad badar could not have been rectified without any order of the competent Court as both the entries were reflected in their favour. The respondent(s)-defendant(s) had sold 1/3rd share of the property to defendant No.5 without any legal right, title and since the possession was being threatened, injunction was also sought for. Previously also one suit titled as “Amar Singh V/s Tehal Singh etc.” was filed, but, on the basis of the compromise, it was dismissed as withdrawn on 30.09.2000. Both the Courts below have misread and misconstrued the oral as well as documentary evidence, thus, urges this Court for formulation of the substantial questions of law as drawn in the memorandum of appeal and prays for setting aside the findings under challenge.

Per contra, Mr. Aman Bhari, learned counsel on behalf of respondent Nos.7, 8, 11 & 12 submits that the plaintiff-Amar Singh has not been able to explain that how he became the owner of the specific khasra number, even Farad Badar (Ex.D-5) though challenged had not been attached with the plaint, in fact, the jamabandi for the year 1996-97 (Ex.P-3) and (Ex.D-6) showed that the name of Tehal Singh and others was reflected in the column of cultivation and regarding sale by defendant No.1-Ujjagar Singh regarding 1/3rd share to Joginder Singh-defendant No.5, the entry of mutation bearing No.2345. The jamabandi for the year 1976-77 (Ex.D-7) shows that Brij Lal and others were in ownership and in the

column of cultivation, there is entry of Daulat Ram and Toti Ram in equal shares of the aforementioned khasra numbers. He further submits that khasra No.23/1/1 (5-6) was shown in favour of Tehal Singh, Santa Singh and Ujjagar Singh sons of Hira Singh. All these facts have been taken into consideration by both the Courts below, thus, the concurrent findings of fact cannot be interfered until and unless there is a gross illegality and perversity and urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and substance in the submissions of Mr. Puneet Jindal, for, the plaintiff has failed to establish that how he became the owner shown in cultivation possession for 10 years, whereas as per the jamabandi for the year 1976-77 (Ex.D-7), Brij Lal and others had been shown to be owner. There is an entry of Mutation bearing No.1767, in which, Tehal Singh, Santa Singh and Ujjagar Singh had sold the land measuring 5 kanals 6 marlas out of khasra number 23/1/1 in favour of Amar Singh son of Sadhu Singh. Copy of same has been proved on record as Ex.D-8. Owing to the error in the jamabandi, instead of khasra number 23/1/1, entry of khasra number 20/21/8 had been recorded in favour of the appellants-plaintiffs. The aforementioned wrong entry was corrected in accordance with law vide entry of mutation No.1767. I am of the view that the appellants-plaintiffs cannot be taken advantage of the wrong entry in the jambandi. All these facts have been noticed by both the Courts below while dismissing the suit.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below which are based upon the

appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

22.09.2016
yogesh

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No