

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

**RSA No.5226 of 2012 (O&M)
Decided on: 15.03.2016**

Mukhtiar Kaur

....Appellant

Versus

Hakam Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. J.K. Singla, Advocate
for the appellant.

Mr. R.S. Chauhan, Advocate
for respondent No.12.

REKHA MITTAL J. (Oral)

The present appeal has been directed against the consistent findings recorded by the Courts below whereby suit filed by Smt. Mukhtiar Kaur for possession of suit land was dismissed by the learned trial Court and the judgment and decree passed by the trial Court was affirmed in appeal.

Counsel for the appellant/plaintiff would submit that the appellant has been recorded to be owner of the suit land in jamabandi for the year 2001-02 (Ex.P-1), therefore, she is entitled to recover possession from defendants No.1 to 11. It is further argued that the Courts below have committed a serious error rather illegality in non-suited claim of the appellant.

Counsel for respondent No.12 has submitted that the

Gram Panchayat village Joga filed a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') for adjudication of question of title in regard to suit land which was decided in its favour vide order dated 15.06.1998. The appellant filed Civil Writ Petition No.13706 of 1998 to assail the order dated 15.06.1998 but the said petition was dismissed by this Court with liberty to the appellant to take recourse to challenge order dated 15.06.1998 by way of statutory appeal. The appellant instead of availing of remedy in accordance with law filed the present suit knowing well that her claim in regard to ownership of the suit land has been rejected in the proceedings initiated by Gram Panchayat. It is further argued that in the face of order dated 15.06.1998 that has attained finality between the parties, claim of the appellant *qua* ownership of the suit land has been rightly rejected by the Courts below and therefore, she being not entitled to recover possession of the suit land.

I have heard counsel for the parties and perused the records particularly the judgments passed by the Courts below.

Counsel for the appellant has not disputed that the question of title in regard to suit property raised by the contesting respondent under Section 11 of the Act was answered in favour of the Gram Panchayat. It is also an admitted position of the case that the appellant did not challenge the order dated 15.06.1998 by way of filing an appeal before a competent authority. The writ petition

preferred by the appellant to assail the order dated 15.06.1998 was dismissed by the Court. As soon as claim of the appellant in regard to ownership of the suit property stands rejected in proceedings under Section 11 of the Act, there is no merit in the contentions of the appellant that she is entitled to recover possession of the suit property on the premise that she is the owner thereof. The entry in the jamabandi (Ex.P-1) is duly rebutted by the order dated 15.06.1998 passed by competent authority that has become binding upon the parties. In this view of the matter, I do not find any error much less illegality in the findings recorded by the Courts below when otherwise no question of law much less a substantial one arises for consideration.

For the foregoing reasons, the appeal is dismissed. No order as to costs.

(REKHA MITTAL)
JUDGE

15.03.2016
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