

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

RSA No.3337 of 2013
Date of decision : 28.07.2016

Joga Singh

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ajay Jain, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent finding of fact, whereby claim in the suit vis-a-vis mandatory injunction directing the defendant to correct the revenue record in respect of area comprising in Square No.228, Killa No.20, 21, total land measuring 16 kanals 0 marlas, situated within the revenue estate of Village Kariawala, Tehsil Rania, District Sirsa, which according to the plaintiff has wrongly changed in the revenue record vide rapat No.122 dated 23.12.2000 by Revenue Patwari-defendant No.3 with a further direction to defendant No.2-Tehsildar for cancelling of the mutation No.4120 sanctioned on the basis of the aforementioned rapat, has been dismissed by both the Courts below.

Mr. Ajay Jain, learned counsel appearing on behalf of appellant submits that both the Courts below have erred in discarding the evidence produced by plaintiff i.e. oral testimony of PW1 Ram Chander, Sadar Kanungo, PW2 Joginder Kumar, Registration Clerk, PW3 Harish Chander, PW4 Gurdeep Singh who is stated to have appeared in capacity of general power of attorney holder of the appellant and supported the case.

He further submits that previously the plaintiff Joga Singh had executed lease deed in favour of Kashmir Singh vide Deed No.6446 which was cancelled on 07.12.2000. Since then plaintiff had been in possession of the land in dispute but yet entry as noticed above i.e. rapat number had wrongly been entered at the back of the plaintiff and the possession of the other person has been shown in the land in dispute. Stand taken in the written statement having effecting mutation on the basis of the rapat No.100 had admittedly on account of inadvertence. All these aspect has been ignored by Courts below and, therefore, substantial question of law arises for determination by setting aside the judgment and decree under challenge.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book.

It is conceded position on record that present plaintiff Joga Singh suffered decree dated 15.01.1981 in favour of defendant No.4 Boota Singh son of Kashmir Singh. Since then defendant No.4 had been owner of the land in dispute. It is also conceded position on record that Joga Singh had filed a suit challenging the judgment and decree aforementioned as well as judgment and decree dated 05.05.1983 vide which the land in dispute was exchanged by Boota Singh with one Tehal Singh but the said suit and

appeal filed thereon was also dismissed vide judgment and decree dated 11.11.2003 Ex.D4 and this fact surfaced by admission in cross-examination of PW4 Gurdeep Singh. Once the judgment and decree dated aforementioned become final/binding on the rights of Joga Singh, plaintiff is estopped to challenge either lease deed dated 05.01.1981 or judgment and decree and, therefore, cannot claim ownership of the land by challenging the rapat No.122 and mutation No.4120. The aforementioned rapat No.122 Ex.P12 was sanctioned on the statement of Lakhbir Singh, Lakha Singh @ Lakhbir Singh, Darshan Singh son of Anokh Singh. The aforementioned persons have not been impleaded in the suit.

I am of the view that reasons assigned by both the Courts below dismissing the suit is perfectly legal and justified, do not call for interference.

For the aforementioned reasons, I do not find any illegality and perversity.

No ground for interference is made out.

Dismissed.

28.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No