

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

RSA-1158 of 2016 (O&M)

Date of decision: 16.03.2016

Om Parkash

...Appellant

Versus

Swami Ram Parkash and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Jagdish Manchanda, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The plaintiff/appellant filed suit for declaration and consequential relief of permanent injunction and mandatory injunction. The trial Court vide judgment and decree dated 26.11.2013, dismissed the suit.

2. Aggrieved against the findings of trial Court, the plaintiff/appellant filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 02.12.2015.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the

instant appeal at the behest of the plaintiff/appellant.

4. It is contended by the learned counsel for the appellant that both the Courts below have gravely erred while passing the impugned judgments and have failed to appreciate the fact that the plaintiff/appellant being a co-owner is in joint possession of the suit land. The suit land belongs to shamlat Panna Hayan Village Nigana Hasab Rasad Raquba Khewat Wasi Deh and the same was given by the proprietary body of Panna Hayan, Nigana to Sant Harji Ram Chela Sant Issar Dass. During the Chinese war in the year 1962, it was agreed that said Harji Ram should alienate the land for national cause, therefore, he was conferred upon full and absolute ownership rights over the suit land after passing a resolution to this effect and mutation No.6219 dated 04.12.1962 acknowledging and accepting Harji Ram as absolute owner of the suit land measuring 67 kanals 6 marlas. Said Harji Ram sold the land to the inhabitants of the village, vide common sale deed executed on 17.12.1962. The plaintiff had purchased the 1/4th share of the suit land from Ram Chander son of Bansi Lal, vide sale deed No.9251 dated 27.03.1985 for a consideration of Rs.5000/-. The plaintiff had also purchased 1/4th share of Sh. Roshan Lal, vide sale deed

No.2034 for a consideration of Rs.6000/-. Therefore, the plaintiff became owner in possession of $\frac{1}{2}$ share of the suit land. He further submits that both the Courts below have erred in ignoring the mutation sanctioned by the Revenue Department in favour of the purchaser of the land in question which was got sanctioned by the Gram Panchayat.

5. Heard, the learned counsel for the appellant.

6. It is not disputed that Mahant Harji Ram was a Dholidar. The plaintiff had laid the claim before the Courts below to the effect that Harji Ram had become absolute owner of the suit land, vide resolution passed by the Gram Panchayat and holder of Shamlat land and mutations to this effect was also sanctioned. In support of his claim, the plaintiff/appellant has placed reliance upon Ex.P1, wherein it has been mentioned that the absolute ownership has been transferred to Mahant Harji Ram. The resolution passed by the Gram Panchayat in favour of Mahant Harji Ram has not been brought on record by the plaintiff. In the absence of the resolution on record, the contentions putforth by the learned counsel have no merit and the same are hereby repelled. The plaintiff/appellant has miserably failed to prove that Harji Ram was the owner of the

suit land, rather, he himself has admitted that he was a dholidar on the suit land. Thus, he had no saleable interest in the land. Mutation is already under review, which does not confer any right, title or interest. As first Mahant was only a dholidar on the suit land, without a perfect title or ownership to sell the land, therefore, in the given facts and circumstances of the case, this Court is of the opinion that both the Courts below have rightly dealt with the issues in the right perspective and rightly dismissed the suit of the plaintiff. There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

7. These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal.

Dismissed.

16.03.2016

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(JITENDRA CHAUHAN)
JUDGE