

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(123)

RSA-1199-2016 (O&M)

DATE OF DECISION: 04.04.2016

SUKHDEV SINGH

.....Appellant

VERSUS

JARNAIL SINGH AND OTHERS

....Respondents

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

Present: Mr. Dinesh Arora, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division), Patiala dated 10.4.2013, whereby, the suit for possession of the land bearing Khewat No.72, Khatauni No.141, Khasra No.255 (1-0), as per the jamabandi for the year 2004-05 situated in village Barkatpur, Tehsil and District Patiala, stands decreed, appeal against which, preferred by the appellant-defendant, has been dismissed by the Additional District Judge, Patiala on 20.11.2015.

2. It is the contention of the learned counsel for the appellant that the respondent-plaintiff, on the basis of a stray entry in the jamabandi for the year 2004-05, have asserted himself to be the owner of the land on the basis of the sale deed dated 20.9.2006 bearing No.1140, whereby Sarwan Singh and Kewal Ram sons of Harnam Dass were shown to be owners in possession of the property. The mutation, which has been, on the basis of the said sale deed, sanctioned in favour of the respondents-plaintiffs, would

therefore not enure to his benefit, especially when specific plea has been taken by the appellant-plaintiff that they are in possession of the suit property for the last about 50 years. The plea of adverse possession, which was hostile, peaceful and continuous, cannot thus be disputed and the findings recorded by the Courts below, deserve to be set aside. He contends that the suit of the respondent-plaintiff should have been dismissed by the Courts below.

3. I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

4. The due execution of the sale deed in favour of the respondent-plaintiff-Jarnail Singh by Sarwan Singh and Kewal Ram sons of Harnam Dass bearing sale deed No.1140 dated 20.9.2006 has been duly proved as Sarwan Singh one of the sellers, had appeared before the Courts below and proved the said execution. The jamabandi for the year 2004-2005 reflects the ownership and possession of Sarwan Singh and Kewal Ram. Mutation sanctioned in favour of the respondent-plaintiff-Jarnail Singh, has also been not disputed. The plea which has been taken by the appellant-defendant is that they have become owners of the property by way of adverse possession. Except for the bald statement of the appellants, there is no revenue record which has been produced on record showing them to be ever in possession of the suit property. The assertion of the appellants is against the revenue record, the sale deed and the mutation sanctioned in favour of the respondent-plaintiff-Jarnail Singh. When the evidence led by the appellant is considered which is mere oral assertion, the same cannot be accepted when pitted against the revenue record i.e. the jamabandi for the year 2004-

2005, and the mutation. It is not disputed that this jamabandi has never been challenged by the appellants. The Courts have rightly proceeded to allow the suit of the respondent-plaintiff. The judgments, thus passed by the Courts below, cannot be faulted with.

5. No other point has been argued by the counsel for the appellant.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM-3373-C-2016 stands disposed of as infructuous.

April 04, 2016

SwarnjitS

**(AUGUSTINE GEORGE MASIH)
JUDGE**