

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

**R.S.A No. 141 of 2016(O&M)
Date of decision :15.01.2016**

Chanan Singh

..... Appellant

Versus

Punjab State through Collector, Amritsar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Kewal Krishan, Advocate
for Mr. Premjit Kalia, Advocate
for the appellant.

- 1. Whether Reporters of local papers may be allowed to see the judgement?Yes**
- 2. To be referred to the Reporters or not?Yes**
- 3. Whether the judgement should be reported in the Digest?Yes**

DARSHAN SINGH,J

The present appeal has been preferred by the appellant against the judgment and decree dated 21.09.2015 passed by the learned District Judge, Amritsar, vide which the appeal filed by the respondents against the judgment and decree dated 11.11.2014 passed by the learned Additional Civil Judge (Sr. Division), Ajnala, has been allowed and the suit filed by the appellant-plaintiff for declaration with consequential relief of injunction has been dismissed.

- 2. For the sake of convenience, the status of the parties shall be**

referred as in the original suit.

3. The brief facts of the case are that the suit land measuring 4 Kanals bearing Killa No. 88/1 min west, out of the total land measuring 8 Kanals, Khata/ Khatouni No. 217/601/1, as per jamabandi for the year 2000-2001 situated at village Kaler, Tehsil Ajnala, District Amritsar was owned by Provincial Government. The suit land was in possession of the plaintiff for the last more than 20 years. The Provincial Government allotted the suit land to the plaintiff on the basis of his possession. A conveyance deed dated 17.12.2008 was executed in favour of the plaintiff. He deposited the entire amount with the Government and on the basis of said conveyance deed, he became the owner of the suit land. But, few days prior to the filing of the suit, the officials of the defendants came to the spot claiming that the suit land belongs to them. Plaintiff requested them that the same has been transferred in his favour vide conveyance deed. But, they threatened to take forcible possession thereof. Hence the suit.

4. Defendants-respondents contested the suit on the grounds *inter alia* that the alleged conveyance deed got executed in favour of the plaintiff has already been cancelled on 10.02.2011 by Tehsildar-cum-Assistant Collector II, Ajnala on the direction of the District Collector, Amritsar. They denied that the plaintiff was either in physical possession of the property or the said property was under his lawful ownership. So, he was not entitled to relief. It was further pleaded that infact the land was under the possession of the defendant-department. The concerned Patwari Halka had made the demarcation

report and the land in dispute was found to be under the ownership of the Public Works Department. All other averments in the plaint were controverted. Certain legal and preliminary objections were also raised by the defendants.

5. From the pleadings of the parties, the following issues were framed by the learned trial Court vide order dated 15.12.2011:-

1. Whether the Provincial Government was owner of the suit land and plaintiff is in possession of the suit land for the last 20 years?OPP
2. Whether plaintiff has become owner in possession of the suit land by virtue of conveyance deed dated 17.12.2008 and is entitled for the relief of declaration, as prayed for?OPP
3. Whether plaintiff is entitled to the relief of permanent injunction, as prayed forOPP
4. Whether suit of the plaintiff is not maintainable?OPD
5. Whether plaintiff has no locus standi to file the present suit? OPD
6. Whether plaintiff has suppressed material facts from the knowledge of the Court and has not come to the Court with clean hands?OPD
7. Whether plaintiff is estopped from his own act and conduct from filing the present suit?OPD
8. Relief.

The suit filed by the plaintiff-appellant was decreed by the learned trial Court vide judgment and decree dated 11.11.2014. Aggrieved with the aforesaid judgment and decree, the defendants preferred the appeal, which was allowed by the learned District Judge, Amritsar and the suit of the plaintiff was dismissed. Hence this appeal.

6. I have heard Mr. Kewal Krishan, Advocate, learned counsel for the appellant and have meticulously gone through the paper book.

7. Learned counsel for the appellant contended that the plaintiff was in possession of the suit land for the last more than 20 years. On the basis of his possession, the same was allotted to the plaintiff and a conveyance deed Ex.P-1 in this regard was also executed in his favour on 17.12.2008. He had also deposited the entire sale price of the suit land with the Government. So, he had become the owner of the property in dispute. He further contended that the order cancelling the conveyance deed in favour of the plaintiff has been passed during the pendency of the case, which will have no effect on the rights of the plaintiff-appellant. Thus, he contended that the learned District Judge, Amritsar has wrongly reversed well reasoned judgment passed by the learned trial Court.

8. I have duly considered the aforesaid contentions.

9. The entire claim of the plaintiff is based on the conveyance deed dated 17.12.2008 registered on 18.12.2008 Ex.P-1 with respect to the disputed land. But, this fact is not disputed that during the pendency of the case, the S..D.M-cum-Sales Commissioner, vide order dated 27.10.2014 copy Ex.D-19 cancelled the conveyance deed Ex.P-1 executed in favour of the plaintiff. It is further an admitted fact that the plaintiff has not filed any appeal against that order. Therefore, the order dated 27.10.2014 Ex.D-19 had attained finality.

10. After the cancellation of the said conveyance deed, the plaintiff cannot claim himself to be the owner of the disputed property as the alleged document of title i.e. conveyance deed Ex.P-1, in his favour already stands cancelled.

11. Learned First Appellate Court has further discussed in detail

the revenue documents with respect to the suit land wherein the nature of the suit land has been shown as *Gair Mumkin Makaan* and *Gair Mumkin Adda*. In the copy of the jamabandi Ex.P-5, the kind of land comprised of Khasra no. 88/1(8-0) has been shown as *Chahi* and the name of the plaintiff has been shown in the column of cultivation. But, the plaintiff has not rendered any explanation as to how his name came to be entered and on what basis he was shown to be in possession of the land. The plaintiff has not placed any mutation qua Khasra No. 88/1 measuring 4 Kanals in his favour. The sanctioning of such mutation was negated from the copy of the jamabandi for the year 2005-2006 Ex.P-7 as mentioned by the learned First Appellate Court. In the copy of the jamabandi Ex.P-8 for the year 2010-2011, the kind of land comprised of Khasra No. 88/1 (4 Kanals) has been shown as *Gair Mumkin Bus Stand* and the name of the cultivator has been mentioned as Chanan Singh-plaintiff in column no. 5. Again, there is no explanation as to how this entry has been changed and how the plaintiff came to be in possession of such land. There is no plea in the plaint raised by the plaintiff that he has raised any construction in the suit land. The plaintiff has himself admitted that the Provincial Government was the owner of the land in dispute. He was claiming the right, title and interest in the suit land simply on the basis of the conveyance deed Ex.P-1, which already stands cancelled by the Competent Authority, vide order dated 27.10.2014 copy Ex.D-19. So, the plaintiff can no more claim any right, title or interest in the suit land and consequently, he is not entitled for the relief of declaration as well as injunction. So, I do not find any illegality in the judgment of reversal

passed by the learned First Appellate Court.

12. Thus, no question of law, much less, the substantial question of law as claimed by the appellant arises in the present appeal.

13. Consequently, the present appeal having no merits is hereby dismissed in *limine* with no orders as to costs.

January 15, 2016

s.khan

**(DARSHAN SINGH)
JUDGE**