

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

(1)

**Regular Second Appeal No.1822 of 2015 (O&M)
Date of Decision: April 25, 2016.**

Bhagwant Singh and another

.....APPELLANT(s).

VERSUS

Harnek Singh and others

.....RESPONDENT(s).

(2)

Regular Second Appeal No.2021 of 2015 (O&M)

Bhagwant Singh and another

.....APPELLANT(s).

VERSUS

Harnek Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Naresh Jain, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

2. The suit filed by the plaintiffs, seeking possession of 11 kanals of land as fully described in the head note of the plaint, was decreed by Civil Judge (Junior Division), Talwandi Sabo on the ground that this land has fallen to the share of plaintiffs in partition proceedings finally decided by Assistant Collector 1st Grade vide order dated 31.08.2006. Mutation based on this partition order bearing No.3477 dated 30.08.2011 was also sanctioned.

3. Defendants/appellants did not challenge this fact that the suit

land had fallen to the share of plaintiffs in the partition proceedings but contested the claim of plaintiffs on the ground that they had become owners of the suit land by way of adverse possession. This plea was, however, discarded by both the Courts below.

4. Learned counsel for the appellants has not pressed upon the plea raised by the appellants-defendants in their written statement/counter claim that they have become owners by way of adverse possession but has put forth another plea that the appellants-defendants, in their written statement, have also claimed their possession as tenant over the suit land.

5. On perusal of the written statement/counter claim, copy of which has been supplied by learned counsel for the appellants-defendants, it appears that the appellants have not taken the plea that they are in possession of the suit land as tenant, rather, they have been pressing the plea of their adverse possession over the suit land. It is also pleaded by the appellants-defendants that their possession over the suit land is for the last 50 years without paying *Hissa, Theka, Rent, Batai* etc. Once the plea raised by the appellants that they have become owners of the suit land, has been discarded, they are estopped from raising plea put forth by learned counsel for appellants.

6. On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

7. No substantial question of law requiring determination arises in these appeals, which have no merits.

8. Dismissed.

(SURINDER GUPTA)
JUDGE

April 25, 2016.
Sachin M.