

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

RSA No. 1848 of 2015 (O&M)

Date of decision:-16.08.2016

Nachhattar Singh

.....Petitioner

Versus

Jagtar Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Ruchi Sekhri, Advocate,
for the appellant.

AMOL RATTAN SINGH, J. (ORAL)

Learned counsel for the appellant submits that in a previous lis between the appellant and the respondent-defendant No. 1, where the said defendant was the plaintiff, a specific finding has been recorded by the learned lower appellate Court (in that lis), to the effect that the appellant was in actual physical possession of the suit land involved in the present lis. Learned counsel for the appellant has read out that part of the judgment (stated to be Ex. P-7 before the Courts below in the present lis), in which it is recorded that in fact the present appellant had installed a tubewell on the said land. Hence, the contention is that the finding in the present lis to the contrary is not in accordance with the factual position.

It is seen that the learned Courts below have actually held that the parties are in joint possession of the suit land, even though vide a sale deed in favour of respondent- defendant No.1-Jagtar Singh, dated 12.03.1992, specific khasra numbers were given and mutation was accordingly sanctioned. However, it has further been held, while rejecting the respondent-defendants' contention, that despite specific khasra numbers

place, the appellant-plaintiff and the respondent-defendants would be deemed to be in joint possession of the entire suit land.

I see absolutely no error in that finding. The apprehension in the mind of the appellant-plaintiff is that during partition proceedings, since a mutation has been effected by the revenue authorities to the effect that the respondent-defendant No. 1 is in exclusive possession of a particular parcel of land, he (the said respondent) would eventually be given possession of the said land, despite the finding in the previous lis that it was actually the appellant-plaintiff who had sunk a tubewell in the suit land.

The said apprehension may not be entirely unfounded but the fact is that the findings of the civil Courts below in the present lis are specific to the effect that the appellant and defendant No. 1 are to be considered in joint possession of the suit land, which finding is binding on the revenue authorities.

It may be also said here that the aforesaid findings of the Courts below in the present lis are not under challenge by the defendant.

Consequently, while dismissing this appeal, it is held that the revenue authorities, during any partition proceedings between the present parties to lis, would keep in mind the aforesaid findings of the learned Courts below and thereafter effect partition between all concerned joint owners of the suit land.

(AMOL RATTAN SINGH)
JUDGE

16.08.2016

PA

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No