

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

R.S.A. No.983 of 2013 (O&M)

Date of decision: 21.04.2016

Riasat Ali and others

..Appellants

Versus

Union of India and another

..Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Bhag Singh, Advocate
for the appellants.

Mr. Vikrant Pamboo, Advocate
for respondent No.1.

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J.

CM No.2661-C of 2013

CM is allowed and Annexues A-1 and A-2 are taken on
record, subject to all just exceptions.

CM No.2662-C of 2013

After hearing learned counsel for the parties and for the
reasons contained in the application, which is duly supported by an
affidavit, same is allowed and delay of 626 days in re-filing the
present appeal is condoned, subject to all just exceptions.

Main Case

This regular second appeal is directed against the

judgment and decree dated 30.11.2010, passed by learned Additional District Judge, Ambala (for short, the 'first Appellate Court') whereby, the appeal filed by the plaintiff-appellants, against the judgment and decree dated 19.03.2009, passed by learned Civil Judge, (Sr. Divn.), Ambala, (for short, the 'trial Court') dismissing the suit of the plaintiffs-appellants, has been dismissed.

The learned counsel for the appellants contends that as per Jamabandi for the year 1945-46, the appellants were proprietors of village Rataur, Tehsil Naraingarh, District Ambala. The ancestors of the appellants were the recorded owners in possession of the suit land till 1966 in the revenue record. The appellant did not migrate to Pakistan at the time of the partition in the year 1947 as alleged by the respondents. In fact, respondents have wrongly converted the suit land into evacuee property without issuing any notice or notification. The learned Courts below have dismissed the suit of the appellants on the ground that the appellants had not produced the pedigree table, however, the learned Ist Appellate Court has erroneously dismissed the application of the appellants for leading the additional evidence. Lastly, it is averred that the land of any person cannot be taken away without payment of any compensation.

On the other hand, the learned counsel for the respondents state that the muslims who owned the suit land have migrated to Pakistan during the partition in the year 1947 and the

land in question vested in the Custodian as evacuee property by operation of law under Section 4 of the East Punjab Evacuee (Administration of Property) Act, 1947. Neither the appellants are the legal representatives of original land owners nor they are residing at the suit property. Thus, the present appeal is liable to be set aside.

I have heard the contentions raised by the learned counsel for the parties and carefully gone through the paperbook as well as the entire records on the file.

The learned Courts below have rejected the claim of the appellants on the ground that the appellants have failed to place on record the pedigree table or any other authentic documents, which prove their relationship with the original owner of the suit property. Though, the appellants had filed the application for placing on record the pedigree table, however, the same was dismissed by the learned Ist Appellate Court as they could not evoke any reliable circumstances. Further, neither the appellants have been residing in area where the suit property is located nor they were cultivating the same. The appellants have not led any cogent and convincing evidence to prove their ownership and possession over the suit property. The original land owners of the suit property had migrated to Pakistan, therefore, the land in question vested in the Custodian as evacuee property automatically by operation of law under Section 4 of the East Punjab Evacuee (Administration of Property), Act, 1947.

Consequently, this Courts finds no infirmity or illegality in the findings recorded by the learned Courts below. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal. Hence, no interference is called for.

Dismissed.

21.04.2016

ashok

(JITENDRA CHAUHAN)
JUDGE