

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 2562 of 2014 (O&M)
Date of Decision : 10.03.2016

Bukan Singh

....Appellant

Versus

Manjinder Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Balbir Singh Jaswal, Advocate
for the appellant.

Surinder Gupta, J. (Oral)

This is second appeal filed by plaintiff-Bukan Singh (appellant) against the judgment of Civil Judge (Junior Division), Amritsar whereby his suit seeking the relief of declaration that he is owner in possession of two plots measuring 40X50 feet and 40X30 feet carved out of *khasra* no. 4205 *min* (3 *kanals* - 0 *marla*) situated at Sultanwind Urban, *Tehsil* and District Amritsar, was dismissed.

Plaintiff claimed ownership of suit land being his share out of total *shamlat* land measuring 10 *kanals* 3 *marlas*. Learned Civil Judge (Junior Division) discarded claim of plaintiff with the observation that he has not been able to place on record any document to prove his title over suit land or even his possession. Copies of *jamabandies* placed on record nowhere depicted his name in column of ownership or in column of possession of suit property.

Plaintiff had earlier filed a civil suit under Section 45 of the Land Revenue Act for correction of entries in *jamabandi* against Harpal Singh, Ajit Singh and Tarsem Singh, bearing Civil Suit No. 105 of 18.09.1998 titled as 'Bukan Singh vs. Harpal Singh and others'. Both the Courts below have held that said civil suit is qua

the same matter as involved in the present case and a finding was recorded in that suit that plaintiff is not in possession of suit property. While filing the present suit, plaintiff concealed this material fact and this has been taken by Ist Appellate Court as a fraud on the Court while dismissing the appeal filed by plaintiff.

Learned counsel for the appellant argues that defendants-respondents, though, filed written statement but they did not contest the suit. Secondly, plaintiff himself appeared as PW-1 and filed affidavit stating therein that he is owner in possession of suit land and his statement is un-rebutted.

The mere fact that defendants have not opted to contest the suit filed by plaintiff in no manner invest plaintiff with right to have title or possession of suit land. He was required to prove this fact by leading cogent and convincing evidence. Both the Courts below have rightly discarded the plea of plaintiff as in earlier suit he has been held to be not in possession of suit land. No evidence was produced by plaintiff that he is proprietor of village having any share in *shamlat* land. He appears to have based his claim on flimsy ground.

On perusal of judgments of both the Court below I find no legal or factual infirmity therein calling for any interference. No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

March 10, 2016
jk

(SURINDER GUPTA)
JUDGE