

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

RSA No.4557 of 2014(O&M)

Date of decision:3.5.2016

Rajwinder Singh

....Appellant

VERSUS

Kour Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sandeep Jasuja, Advocate for the appellant.

REKHA MITTAL, J.

The present appeal has been directed against the concurrent findings recorded by the Courts below whereby suit filed by the appellant for permanent injunction was dismissed by the learned trial Court vide judgment and decree dated 13.03.2013 and the findings recorded by the trial Court have been affirmed in appeal by the Additional District Judge, Fazilka vide judgment and decree dated 26.02.2014.

Counsel for the appellant has submitted that the findings recorded by the Courts below are the result of misreading and misconstruction of evidence adduced by the appellant. It is further submitted that the Courts have wrongly been swayed by the evidence led by the defendant/respondent in the shape of witnesses and agreement (Ex.DW1/C), affidavit (Ex.DW3/B) and certificate issued by the villagers (Ex.DW2/A), when otherwise these documents have no evidentiary value.

It is further argued that Courts below have committed a gross error in

ignoring consistent entries in the revenue records i.e. Jamabandis and khasra girdawaris from the period 1983-84 onwards wherein Jhujhar Singh, father of the appellant, has been recorded to be in possession of the suit land and after his death, appellant being his son and other legal heirs stepped into the shoes of Jhujhar Singh.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts below.

Before advertng to the submissions made by counsel for the appellant, it is pertinent to mention that consistent findings of fact recorded by the Courts below are not amenable to challenge in the second appeal unless they give rise to a substantial question of law for adjudication. Equally settled is that it is not open for the Court exercising jurisdiction under Section 100 CPC to re-appraise/re-appreciate the evidence in order to differ with what has been held by the Courts below while deciding disputed questions of fact.

In the case at hand, the appellant has mainly relied upon entries in the khasra girdawaris and Jamabandis wherein possession of Jhujhar Singh as a *gair marusi* has been reflected. Concededly, Sh. Jhujhar Singh has passed away but there is nothing on record suggestive of the fact as to when Sh. Jhujhar Singh departed from this world. Even it is not clear if the first entry in the name of Sh. Jhujhar Singh was made at a time when Sh. Jhujhar Singh was alive. It has also been noticed by the Courts below that the present suit for injunction was filed by the appellant/plaintiff immediately after the defendant filed an application for correction in the khasra girdawari so that the proceedings with regard to

correction of khasra girdawari are stalled on the pretext that the matter is pending before the Civil Court.

In view of the above, I find myself unable to accept the submissions made by counsel for the appellant that the findings recorded by the Courts below are either based on no evidence or the same are the result of non-application of mind or misconstruing of evidence adduced on record. The present appeal does not give rise to a question of law much less a substantial one for adjudication.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in *limine*.

MAY 3, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE