

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA No.5067 of 2014 (O&M)

Date of decision: 12.8.2016

Balbir

... Appellant

versus

Ramji Lal and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.**

Present: Mr.S.K.Yadav, Advocate,  
for the appellant  
...

AMOL RATTAN SINGH, J. (Oral)

1. The plaintiff is in second appeal having initially filed a suit seeking permanent injunction restraining the defendants-respondents from interfering in his possession over the suit land, who are admittedly the owners of the suit land, which the appellant-plaintiff claimed to be in possession of, having allegedly purchased tenancy rights from the original owner, i.e. Sultan Singh, in the year 1991.

2. Learned counsel for the appellant submits that cultivating possession of the appellant was duly reflected in the column of cultivation, in the *jamandies* from the year 1991 onwards, and during the pendency of the suit he was dispossessed by the respondents-defendants in 2007, leading to his filing an application for amendment of the plaint, which was dismissed in the year 2007 itself.

As such, learned counsel contends that the learned Courts below have completely mis-appreciated the fact that the appellant having been shown in the revenue record, to be in cultivating possession, and it is his specific stand that he had been ousted therefrom, the suit having been

filed by him, possession should have been restored in any case, and thereafter, a decree of permanent injunction should also have been passed in favour of the appellant, against the respondents.

3. However, a perusal of the judgment of the learned lower appellate Court shows that the appellant-plaintiff could not refute the finding that the change in the revenue entries from the years 1990-91, in the column of cultivation, was made without any notice issued to the respondents, who were, admittedly, the owners of the suit land, which is a mandatory requirement under Section 37 of the Punjab Land Revenue Act, 1887, as also the provisions of the Punjab Land Records Manual, which lay down the procedure for change in the entries in the *jamabandi*.

That admittedly being so, to the effect that the appellant-plaintiff could not show that due notice was issued to the landlord before change of entries in the revenue records, I find no perversity in the findings of the learned Courts below to the effect that actually the appellant-plaintiff could not even prove his possession of the suit land at any time, even after 1990-91, except for the entries made in the *jamabandis*.

4. Without a doubt, as per Section 44 of the Punjab Land Revenue Act, 1887, there is a presumption raised in favour of the revenue entries but it is a rebuttable presumption and since due procedure was not shown to have been followed for correction of the revenue entries, the findings of the learned Courts below cannot be faulted, inasmuch as, when the revenue entries were changed showing the appellant to be in cultivating possession, with not even an opportunity given to the respondents-landowners to rebut his alleged possession, and to disprove that he (appellant) was in such

possession, no reliance can be placed by the appellant on such entries.

Therefore, the finding of the learned Courts below, holding the appellants' possession over the suit property to be not proved, is not a finding that can be interfered with.

5. Consequently, finding no merit in this appeal, it is dismissed *in limine*, with no order as to costs.

12.8.2016  
pk

( AMOL RATTAN SINGH )  
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No