

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

**RSA No.6418 of 2014 (O&M)
Date of decision:26.08.2016**

Niranjan Lal

... Appellant

Vs.

Smt. Parmali (since deceased) through LRs and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anish Setia, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, suit for declaration and consequential relief of permanent injunction, sought on the basis of an affidavit, Ex.P7 executed by Parmali, has been dismissed.

Mr. Anish Setia, learned counsel appearing on behalf of the appellant-plaintiff submits that the suit aforesaid, was filed on the premise that Kishore Dass was a tenant of land measuring 2 kanlas 19 marlas and 3 kanals 4 marlas as described in the head note of the plaint. He was in cultivating possession of the land as tenant to the extent of 3/8th share. He died about 35-40 years back. However, the name of Kishore Dass continued to be reflected in the revenue record in the column of cultivation. Parmali executed an affidavit dated 13.05.1996 relinquished her rights in favour of the plaintiff admitting him to be in possession. It is in this background of the matter, the suit aforementioned was filed. He further submits that both

the Courts below have misread affidavit, Ex.P7 on the premise that appellant has not been able to prove that he was grandson of Kishore Dass, much less, possession in the suit land and thus, urges this Court for setting aside the judgments and decrees rendered by both the Courts below.

I have heard learned counsel for the appellant-plaintiff and appraised the judgments and decrees of the Courts below and of the view that once no evidence has come on record with regard to appellant being in possession of the suit property after the demise of Kishore Dass and could not be able to prove that he was in cultivating possession of the suit land, therefore, the Courts below declined the declaration on the basis of the affidavit as execution of affidavit would not cloth him the status of tenant. The documentary evidence is only with regard to possession of the father of the appellant and not of Kishore Dass. In my view, both the Courts below have rightly declined the relief as sought for.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 26, 2016
savita

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No