

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 744 of 2014 (O&M)
Date of Decision : 13.12.2016

Budh Ram

....Appellant

Versus

Nar Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mani Ram Verma, Advocate
for the appellant.

Surinder Gupta, J.

Appellant-Budh Ram filed suit seeking the relief of permanent and prohibitory injunction to restrain the defendants from interfering in his peaceful possession or forcibly dispossessing him from suit land and that the defendants have no legal right to interfere or dispossess plaintiff from suit land. He sought further declaration to the effect that plaintiff is in cultivating possession of the suit land as tenant from the year 1974 and entries in the revenue record from the crop of *Khariiff* 1974 in the name of Bisu/Sisu/Bishan Lal son of Ballu are wrong and not binding on the right of plaintiff. The same are liable to be corrected in the name of plaintiff as *Muzaira Gair Marusi Batai Tihai* in the column of cultivation.

2. In later part of the judgment parties will be referred as 'plaintiff' and 'defendants' as per civil suit.

3. Case of plaintiff, in brief, is that Bisu @ Biru son of Ballu father of defendant no. 2 was cultivating the suit land prior to the year 1974 when he shifted to Patna and handed over possession of the suit land on payment of share of produce to plaintiff. However, no legal formalities regarding change of *girdawari* or the receipts of *batai* were ever performed

because of cordial relation of parties. Plaintiff, who is an illiterate person, was paying share of produce to defendants in good faith.

4. In the year 1996, Nand Lal was in need of money and he wanted to sell his 12 *bighas* 4 *biswas* of land, which were in cultivation with plaintiff and in good faith, plaintiff asked the defendants for purchasing the land from the share of produce being paid to them and he purchased in the name of defendants 12 *bighas* 4 *biswas* of land from his own pocket by paying ₹40,000/- as sale consideration and incurring other expenses. Now taking the benefit of entries in revenue record in their name, defendants started threatening to dispossess plaintiff and to sell the suit land, hence this suit.

5. In separate written statement filed by defendants no. 3 and 4, they contested claim of plaintiff *inter alia* pleading that they are in possession of the suit land. Plaintiff has no concern with the land in suit. Earlier suit land was being cultivated by Nar Singh Dass and his predecessor-in-interest. Defendants no. 1 and 2 sold the suit land and handed over possession to them.

6. Defendants no. 1 and 2 also denied contention of plaintiff that he had been cultivating the suit land since 1974 and asserted their possession over it.

7. For want of any evidence on record learned Civil Judge (Junior Division), Siwani discarded the plea of plaintiff that he had been in continuous possession of the suit land. Reliance was placed on continuous entry in the revenue record in the name of Bisu/Sisu/Bishan Lal son of Ballu, which was later on changed in the name of defendants no. 3 and 4.

8. On appeal, Ist Appellate Court also discarded the plea of

plaintiff regarding his possession over the suit land and that he had been cultivating the suit land as tenant on payment of 1/3rd share of produce.

9. Learned counsel for the appellant has argued that tenancy of plaintiff over the suit land is proved from three documents, which are mark 'A1', mark 'A2' and mark 'A3' and letters Ex. DA and Ex. DB. He has argued that Courts below have not looked into these documents in proper spirit.

10. Admittedly, the suit land was owned by father of defendants no. 1 and 2. Entries in *khasra girdawaries* continued in the name of father of defendants no. 1 and 2 and no mention in the revenue record was ever made that plaintiff is in possession in any capacity over the suit land or had been paying any share of produce to landlords. Mark 'A1' is the sale deed, which Nand Lal executed in favour of Nar Singh Dass and Banarsi Dass, defendants no. 1 and 2, for sale of 12 *bighas* 4 *biswas* of land. Plaintiff signed this sale deed on behalf of vendees. No evidence has been produced that this sale consideration was paid by plaintiff from his own pocket. If plaintiff was cultivating the land of defendants no. 1 and 2 on payment of share of produce, there was no occasion for him to purchase the land in the name of his landlords by paying sale consideration from his own pocket. This plea put-forth by learned counsel for the appellant has been rightly rejected by Courts below being highly improbable. Mark 'A2' is a writing regarding the settlement of account whereby defendant no. 2-Banarsi Dass received a sum of ₹9000/- out of total amount of ₹39,000/-. Mark 'A3' is again a writing regarding the settlement of account showing an amount of ₹60,500/- as due out of which ₹31,500/- were received and a sum of ₹20,000/- were paid to sons of one Prabhu and ₹11,000/- were given for

paint and whitewash of *dharamshala*. Neither there is any mention in these receipts that accounts are being settled with plaintiff or his status as tenant is being recognized. In these receipts there is nothing regarding total produce and share of produce payable by the plaintiff. These receipts reflect that some accounts regarding the share of crop was being maintained. There is no reference that 1/3rd share of produce was being paid by the plaintiff to landlords.

11. I have also perused the other two documents referred by learned counsel for the appellant. In both the letters Ex. DA and Ex. DB, there is no reference that plaintiff was cultivating the land of defendants no. 1 and 2 as tenant or he was paying any share of produce to them. Learned counsel for the appellant has read over both the letters but could not point out even a single line in the letters which even remotely suggest that plaintiff was cultivating the suit land as tenant under defendants no. 1 and 2.

12. No other point has been argued by learned counsel for the appellant.

13. On perusal of judgments of Courts 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 merit.

Dismissed.

December 13, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No