

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) RSA No.3459 of 2008(O&M)
Date of Order:26th September, 2017

Iqbal Singh and another ..Appellants

Versus

Taki Mohammad ..Respondent

(2) RSA No.3463 of 2008(O&M)

Iqbal Singh and another ..Appellants

Versus

Taki Mohammad & others ..Respondents

(3) RSA No.3464 of 2008(O&M)

Iqbal Singh and another ..Appellants

Versus

Taki Mohammad & others ..Respondents

(4) RSA No.201 of 2009(O&M)

Iqbal Singh and another ..Appellants

Versus

Taki Mohammad ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Malkeet Singh, Advocate,
for the appellants.

Mr. S.D.Bansal, Advocate,
for respondent no.1 (in RSA No.3464, 3459, 3463 of 2008)

ANIL KSHETARPAL, J.

By this judgment, I shall be disposing of RSA Nos.3459, 3463,

3464 of 2008 and RSA No.201 of 2009.

Takki Mohammad-respondent filed Civil Suit No.131 of 2004, claiming to be entitled to a decree for permanent injunction, with respect to land measuring 43 kanals and 2 marlas. Whereas, Iqbal Singh and Harjeet Singh, appellants filed a Civil Suit No.683 of 2002 for grant of decrees for permanent injunction with respect to the aforesaid land.

Both suits were tried by the same learned Civil Judge (Jr. Division), Jagadhari, and decided vide separate judgments dated 05.05.2005.

Four appeals were preferred. All the four appeals were decided by a common judgment.

Case of the appellants Iqbal Singh and Harjeet Singh is that one Shri Kanhiya was allotted land measuring 43 kanals 2 marlas in the year 1962-63. It is further the case of the appellants that out of 43 kanals 2 marlas, the Central Government cancelled the allotment with respect to land measuring 36 kanals, whereas allotment of land measuring 7 kanals and 2 marlas was upheld. It is further the case of the appellants that they are in cultivating possession of the land.

On the other hand, case of Taki Mohammad is that Kanhiya had inducted Noor Deen, his father, as a tenant and thereafter he has been in continuous possession of the land.

Learned trial Court after appreciating the evidence available on the file, decreed the suit filed by the appellants with respect to land comprised in khasra no.18//14 min, 19//10/2, 18//6, 7, whereas suit filed by Taki Mohammad was decreed with respect to the remaining land.

Four appeals were preferred. Learned first appellate Court after re-appreciating the evidence available on the file recorded a finding of fact

that Taki Mohammad is proved to be in possession of 35 kanals and 2 marlas of land, whereas the appellants are proved to be in possession of 8 kanals of land i.e. comprised in khasra no.18//14min, 19//10/2.

I have heard counsel for the parties at length and with their able assistance gone through the record of the case.

It is not in dispute that in the revenue record, possession of Noor Mohammad, father of Taki Mohammad is established on the file since 1975-76. The jamabandi for the year 1975-76, Ex.D13 on record shows that with regard to land measuring 28 kanals, Noor Deen is shown to be in possession as sub-tenant. Whereas with respect to land measuring 7 kanals 2 marlas, Noor Din, father of Taki Mohammad is shown to be in possession as a tenant under Kanhiya Singh. This entry is continuing in the jamabandi for the year 1981-82, Ex.D14, jamabandi for the year 1985-86, Ex.D15, jamabandi for the year 1990-91. Even jamabandi for the year 1995-96 also show that Noor Din is in possession of land measuring 35 kanals and 2 marlas., Ex.D16 and jamabandi for the year 2000-2001, on the record also shows the same position.

Learned counsel for the appellants has argued that Noor Mohammad had died and, therefore, the entries in the revenue record are *prima-facie* incorrect and hence Taki Mohammad cannot take the benefit of the aforesaid entries.

I have considered the submissions of learned counsel for the appellants. However, I do not find any force in the same.

It is not in dispute that Noor Deen was father of Taki Mohammad. It is further not in dispute that Noor Deen is shown to be in possession as a tenant under Kanhiya Singh, predecessor-in-interest of the

appellants.

There is no evidence available on the file that Noor Deen or Taki Mohammad were ever dispossessed or evicted from the land at any point of time. Once the revenue record, proves that Noor Deen was in continuous possession. After his death, Taki Mohammad (son of Noor Deen) would be deemed to be in continuous possession. Both the suits are for permanent injunction. Ownership of the parties is not subject matter of the dispute in the present case.

Still further, it is admitted position on the record that the appellants, namely, Iqbal Singh and Harjeet Singh are only entitled to land measuring 7 kanals 2 marlas because the allotment of remaining land i.e. 36 kanals has already been cancelled by the Central Govt.

In view of what has been discussed above, I do not find any error in the judgment passed by the first appellate Court.

Hence, all the appeals are dismissed.

26th September, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No