

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

RSA No.3100 of 2016 (O&M)

Date of decision : 22.08.2017

Satpal Singh

...Appellant

Versus

Anudeep Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.S. Sodhi, Advocate for the appellant.

Mr. Suresh Aneja, Advocate for respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff/appellant is in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts.

The plaintiff had filed a suit seeking decree for permanent injunction restraining the defendants from causing any interference into the possession of the plaintiff. The defendants appeared and contested the suit. It was claimed that it is the defendant No.1 who is in possession of the property. It was further asserted that the entry of possession was changed vide Rapat No.391 dated 01.03.2007 by the Revenue Officials on the basis of the statement given by Jaskaran Kaur wife of the plaintiff admitting the possession of the defendant No.1.

Learned trial court after appreciating the evidence available on the file dismissed the suit filed by the plaintiff on the following grounds:-

- i) The plaintiff has not proved his possession. The plaintiff has not produced Jaskaran Kaur his wife in the witness-box. Jaskaran Kaur has signed Rapat No.391, Ex.P5 on the record, admitting the possession of the defendant No.1. It was on the basis of this rapat that entry of possession was changed by the Revenue Official.
- ii) The suit filed by the plaintiff is result of concealment of facts as plaintiff has not disclosed the earlier litigation pending between the parties.

The plaintiff-appellant filed first appeal which has also been dismissed by recording the findings which are extracted as under:-

“12. Plaintiff has filed the suit for permanent injunction and in the suit for permanent injunction possession of the parties is to be taken into consideration by the court while granting the injunction. As per revenue record, jamabandi Ex.P1, the possession of defendant Anudeep Kaur has been shown in the disputed land. Khasra girdawri Ex.P2 further shows the same position. As per rapat Ex.D1, revenue Pawari changed the Khasra girdawri in the name of Anudeep Kaur. Khasra girdawri Ex.D2 for the year 2003-2004, Ex.D3 Khasra girdawri for the year 2008-2009 further shows the possession of Anudeep Kaur on the suit land. Although, it was the argument of learned counsel for appellant that Jaskaran Kaur wife of Satpal Singh was not in possession of the suit land. However, khasra girdawri for the year 2003-2004 Ex.D2 reflects the possession of Jaskaran Kaur and thereafter rapat No.397 dated 1.3.2007, possession of Anudeep Kaur has been recorded in the revenue record. As such it is proved that earlier Jaskaran Kaur was in possession of the suit land and thereafter vide rapat Ex.D1 dated 1.3.2007, she gave her consent that Anudeep Kaur is

in possession of the suit land and Khasra girdawari be changed in her name. Therefore, the possession of defendant Anundeeep Kaur has been proved on the suit land. Moreover, in another suit titled Dilbag Singh Versus Satpal Singh, regarding the suit land is also pending between the parties. However, in para No.6 of the present suit, the plaintiff has averred that no previous litigation between the parties regarding the present suit land is pending nor stands decided by any court of law. It proved that the plaintiff has concealed the material facts from the court regarding the previous litigation which included the suit land. On this score also, the plaintiff is not entitled to the relief of injunction.”

Learned counsel for the appellant has vehemently contended that the entry in the revenue record could not be changed by the Patwari. It has been submitted that the entry can only be changed by the Circle Revenue Officer during inspection. He has further submitted that there is litigation pending between the parties.

I have considered the submission. The rapat Ex.P5 has been entered into by Patwari during inspection of the land. Learned counsel for the appellant has admitted that this rapat is signed by his wife i.e. Jaskaran Kaur. She has not been examined by the plaintiff. She was the best witness who could throw light as to why this rapat was entered into and why it was signed by her. Rapat is duly attested by the Revenue Official and also signed by defendant No.1.

It is further not in dispute that plaintiff failed to lead any evidence to prove his possession. Suit is only for permanent injunction. There is no issue with regard to the ownership. There is concurrent findings

of fact arrived at by the Court holding that the plaintiff is not proved to be in possession.

It is further not in dispute that plaintiff did not disclose that the previous litigation which also include the suit land, is pending between the parties.

For the reasons recorded above, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts.

Regular Second Appeal is dismissed.

22.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No