

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

RSA No.4892 of 2016 (O&M)
Date of decision : 16.08.2017

Gaddi Baba Daya Ram Sahib

...Appellant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Dinarpur, Advocate for the appellant.

ANIL KSHETARPAL, J.

CM No.12752-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 41 days in filing the present appeal is condoned.

Application is allowed.

Main case

The plaintiff has filed this Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

The plaintiff had filed a suit for declaration to the effect that the plaintiff is owner in possession of land described in the plaint. The plaintiff had also claimed that the entries in the revenue records i.e. jamabandi from the year 1962-63 upto the date are illegal, null and void. The suit was filed against Union of India, State of Haryana and Tehsildar (Sales).

The learned trial Court after appreciating the evidence available on the file dismissed the suit filed by the plaintiff.

The first appeal preferred by the plaintiff was also dismissed after re-appreciating the evidence available on the file.

Learned counsel for the appellant has submitted that entries in the jamabandi for the years 1954-55 and 1956-57 Ex.P1 and Ex.P2 shows that the property is owned by the appellant. It is further submitted that thereafter in the year 1962, the entry was made in favour of Central Government without any notice to the appellant. Therefore, the appellant submits that entries are totally incorrect.

I have considered the argument of learned counsel and with his able assistance gone through the judgments passed by the Courts as well as copy of jamabandi for the year 1962-63 Ex.D2 on the file.

A careful perusal of the jamabandi for the year 1962-63 establishes that entry of ownership in favour of the Central Government was recorded on the basis of an order passed by the Collector, Ambala dated 10.09.1955. The plaintiff did not produce a copy of the aforesaid order on the record. Further, the revenue record from the year 1962-63 shows that Central Government is being shown to be owner of the property continuously. The appellant never objected to the aforesaid revenue record. The copies of jamabandies carry a presumption of truth. That presumption has not been rebutted.

The plaintiff filed the present suit on 16.12.2010. The plaintiff had asserted that the plaintiff be declared owner in possession. Onus was on the plaintiff to prove its ownership. However, plaintiff failed to lead any

evidence to prove its ownership. The plaintiff has just produce the copies of two jamabandies i.e. for the years 1954-55 and 1956-57. The plaintiff has not led any other evidence to prove its ownership.

In view of the discussions made above, there is no scope for interference with the concurrent findings of fact.

Counsel for the appellant has not been able to point out any substantial questions of law involved in the present appeal.

Counsel for the appellant has also not been able to bring forth any ground enabling this Court to interfere in the Regular Second Appeal in accordance with Section 41 of the Punjab Courts Act, 1918.

Accordingly, the present Regular Second Appeal is dismissed.

All pending miscellaneous applications are disposed of, in terms of the abovesaid judgment.

16.08.2017

Pawan

(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No