

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

RSA No.4527 of 2015 (O&M)

Date of Decision: September 11, 2017

Ombir

..... Appellant

Versus

Shankar Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rajesh Lamba, Advocate
for the appellant.

Mr. Tanmoy Gupta, Advocate
for the respondents.

DEEPAK SIBAL J. (ORAL)

CM No.10836-C of 2015

For the reasons stated in the application, the delay of 30 days
in re-filing of the appeal is condoned.

CM stands disposed of.

RSA No.4527 of 2015

The appellant, who was the plaintiff before the trial Court had
filed a suit seeking therein a declaration to the effect that he was in actual
cultivating possession for the last over 40 years, as gair marusi over
agricultural land comprising in Khewat No.153 min Khatoni No.202 rect
No.4, killa no.14/2(1-12), 15(8-0), 16 (8-0), rect No.5 killa No.11(8-0),
12/1(1-13) total 27 kanals 5 marlas situated within the revenue estate of

village Tajupur, Tehsil and District Faridabad (for short the 'suit land'). The revenue entries in the column of possession showing the respondents to be in possession of the suit land were also challenged. The respondents were further sought to be restrained from forcibly dispossessing the appellant from the suit land.

The case set up by the appellant before the trial Court was that he was in cultivating possession of the suit land as gair marusi for the last 40 years and that the respondents had never remained in cultivating possession of the same. On 01.05.2006, when the appellant visited the Halqa Patwari to obtain a copy of the *Jamabandi* with regard to the suit land, it came to his knowledge that the respondents had been shown in the revenue record to be in possession of the suit land which records, according to him, were fabricated. He then requested the respondents to get the revenue entries corrected but when they did not pay any heed and, rather started threatening the appellant to dispossess him from the suit land, he filed the present suit for the above referred reliefs.

Respondent No.1 upon appearance before the trial Court submitted that the appellant had never remained in possession of the suit land and that his entire claim was false. He further submitted that it was respondent No.1, who was in possession of the suit land and the revenue entries correctly reflected the same. Respondents No.2 to 10 adopted the stand taken by respondent No.1.

The trial Court dismissed the appellant's suit. The appeal filed by the appellant against such dismissal met the same fate as his suit giving him a cause to knock the doors of this Court through the present second

appeal.

Learned counsel for the appellant reiterated the appellant's case before the trial Court as also the Appellate Court to submit that it was the appellant and not the respondents, who was in actual physical possession of the suit land and that he had led ample evidence before the trial Court to prove the same. However, the trial Court as also the Appellate Court erred in not appreciating such evidence.

The above submissions of the learned counsel for the appellant do not deserve a favourable consideration.

Either side admits the ownership of the suit land to be with the *Gram Panchayat*. The only dispute is with regard to the possession thereof. The respondents have produced and proved revenue record in the form of *Jamabandis* from the years 1939-40 till 2003-04 depicting therein the possession on the suit land to be earlier with their predecessors in interest which was eventually shown to have passed on to the respondents. *Jamabandis* have attached to them a presumption of truth which of course is rebuttable. However, no evidence in the form of any revenue record including *Jamabandis* or *Khasra Girdawaris* was produced by the appellant to rebut the above presumption. No document was also produced by the appellant showing therein the terms of the alleged tenancy of the appellant over the suit land. In fact the appellant while appearing before the trial Court as PW-3 admitted that he had never paid any rent to the Gram Panchayat.

In view of the above, the concurrent findings of fact arrived at by both the trial Court as also the Appellate Court warrant no interference.

The present appeal also does not raise any question of law much less a substantial question of law.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 11, 2017

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No