

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA No.3147 of 2017(O&M)

Date of Decision:-07.11.2017

Harnam Singh.

.....Appellant.

Versus

Mal Singh since deceased through his Lrs & Anr.

.....Respondents.

Present:- Mr. O.P. Hoshiarpuri, Advocate for the Appellant.

JASWANT SINGH, J.

Plaintiff-appellant is in second appeal aggrieved against the concurrent findings returned by the Courts below, whereby his suit for declaration with a consequential relief of permanent injunction has been dismissed by Additional Civil Judge (Sr. Divn.), Guruharsahai vide judgment and decree dated 17.02.2014 and the findings thereof have been affirmed by learned Additional District Judge, Ferozepur vide judgment and decree dated 29.03.2017.

Learned Counsel for the appellant has argued that both the courts below have not appreciated the fact that the entries in the *jamabandies* have wrongly been changed from the name of previous owners to the name of the respondents Mal Singh etc. It is further argued that the said change was made on the basis of an alleged partition, vide *rapat* no.422 dated 13.06.1995 which was challenged before District Collector in appeal and consequently the *rapat* no.422 was set aside. Thus it was argued that

once the *rapat* in question, on the basis of which the revenue record was rectified has been set aside, the *jamabandies* are required to be corrected. It was further argued that since the appellant/plaintiff is in possession of the entire suit land, therefore, his possession is required to be protected. Thus, prayer has been made for acceptance of the appeal.

After hearing learned Counsel for the appellant and perusing the paper book, this Court is of the considered view that the present appeal is devoid of any merit and deserves to be dismissed.

The short question involved in the present case is as to whether the entry in the column of question in the *jamabandi* which stands in the name of Mal Singh etc. is required to be corrected or not at the behest of plaintiff-appellant. Admittedly, plaintiff Harnam Singh is not a co-sharer in the land in dispute. It is also an admitted fact that the other co-sharers, who are mentioned in the column of ownership have not challenged the entry in favour of Mal Singh etc. This fact gains more significance in view of the fact that plaintiff is seeking correction of the entries in the *jamabandies*, having no right, title or interest at all. In fact, as per the own admission of the plaintiff, Arjan Singh (father of plaintiff Harnam Singh) was claiming right over the suit land on the basis of an agreement to sell for which, he had filed a suit for specific performance. The said suit was dismissed and alternative relief of refund of earnest money was awarded. Hence, plaintiff is neither the owner nor the co-sharer in the property in question. Rather, it has come n record that plaintiff-Harnam Singh's suit for declaration on the basis of adverse possession has also been dismissed by the Civil Court vide judgment and decree dated 21.01.2006 and the said findings has been affirmed in the appeal also as well.

In view of the above, it was incumbent upon the plaintiff to prove a semblance of right, title and interest so as to maintain the suit for declaration for changing the revenue entries. No such right, title or interest is coming forth.

As far as the relief of permanent injunction is concerned, there is nothing on record to prove the possession of the appellant/plaintiff and in case he is indeed in possession of the property, the said possession is unauthorized in nature and thus no injunction can be granted to an unauthorized occupant.

In view of the above, finding no question of law much less substantial question of law arising for determination in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

November 07, 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>