

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

**RSA No.3720 of 2017 (O&M)
Date of Order: 08.09.2017**

Umed Singh

..Appellant

Versus

Prem and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Dalal, Advocate,
for the appellant.

Mr. B.S.Bedi, Advocate,
for the caveator/respondents.

ANIL KSHETARPAL, J (Oral)

C.M.No.9073-74-C of 2017

Prayer in these applications is for condonation of delay in filing and re-filing of the appeal.

For the reasons mentioned in these applications, which are supported by an affidavits, the delay of 16 days in re-filing and 2 days in filing the appeal are condoned.

Applications are allowed.

RSA No.3720 of 2017

Plaintiff is in regular second appeal against judgment passed by the learned Additional District Judge, Sonapat.

Plaintiff-appellant filed a suit for declaration with consequential relief of permanent injunction claiming that he is in actual physical possession of the agricultural land measuring 29 kanals 6 marlas.

Defendants contested the suit and disputed the possession of

the plaintiff. It was claimed that earlier the land was owned by Municipal Committee, Kharkhoda and pursuant to a judgment and decree dated 20.04.1991, the land vested with “Thola Kalalan” and defendant no.1 being co-sharer is, in possession of the property in dispute.

Plaintiff claims that he was a tenant under the Municipal Committee, Kharkhoda, and he had paid rent vide receipts exhibited on the file upto June, 1990. However, no lease deed was produced. In any case, it is not a case of the plaintiff that his possession is under a contract or he has any right, title or interest in the property, after the land has vested in “Thola Kalalan”.

Learned first appellate Court after appreciating the evidence available on the file, recorded a finding of fact that the plaintiff is not proved to be in possession of the property. The Court has discussed the evidence in detail and relied upon the revenue record, which does not prove possession of the plaintiff. Jamabandi from the year 1998-99 continuously shows that the plaintiff is not in possession of the property. Jamabandi for the years 2003-04, 2008-09 prove that it is defendant no.1 who is in possession of the property. Revenue record has a presumption of truth.

Still further, learned trial Court had relied upon the order passed by the Financial Commissioner in an application for correction of khasra girdwari, wherein the learned Financial Commissioner had remanded the case to the Assistant Collector for re-decision. It is not in dispute that after remand of the case, the Assistant Collector has once again found after spot inspection that it is defendant no.1, who is in possession of the property.

Once the plaintiff has failed to prove any right, title or interest

in the property in question and he has also failed to produce any evidence on record to prove that he is in settled possession, I do not find any good ground to interfere with the findings of fact arrived at by the learned Additional Judge. Hence, the regular second appeal is dismissed.

September 08, 2017
nt

(ANIL KSHETARPAL)
JUDGE

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