

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

**RSA No.1349 of 1992 (O&M)
Date of Decision.11.12.2018**

Ranjit Singh and others

.....Appellants

Vs

Surinder Pal Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Kashika Kaur, Advocate
for the appellant.

Mr. S.S. Swaich, Advocate
for the respondents.

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AMIT RAWAL J. (ORAL)

The appellants-defendants are in regular second appeal against the concurrent finding of fact whereby the suit of the respondents-plaintiffs for possession of the suit land, has been decreed.

The respondents-plaintiffs sought possession of the suit land measuring 23 kanals 9 marlas on the premise that Surjan Singh was owner and on his demise, his estate was succeeded by the legal representatives. The competent authority allotted the aforementioned land to the plaintiffs on 30.08.1976 and were given possession. Jagjit Singh, original owner died in the year 1978 and his estate was inherited by his mother and widow. Jagjit Singh re-occupied the land and manipulated entries of exchange. On death of Jagjit Singh, defendant No.1 occupied the suit land forcibly and manipulated the entry of exchange i.e. Khasra No.15//23 and 24 in the absence of any title.

Defendants opposed the suit by denying the ownership of the plaintiffs or any concern. It was alleged that Jagjit Singh was cultivating the suit land as tenant and after his death, his widow came into possession

and the suit land had been exchanged by the plaintiffs orally and possession was also exchanged on the basis of oral exchange.

Since the parties were at variance, the trial Court framed the following issues:-

- “(i) Whether the plaintiff is owner of the suit land? OPP*
- (ii) Whether the plaintiff has been forcibly dispossessed by the defendant after 30.08.1976? OPP*
- (iii) Relief.”*

Plaintiffs in support of aforementioned averments, examined two witnesses and tendered into evidence documents Ex.P1 Sanad Taksim, Ex.P2 to P3 treasury challan and Ex.P8 sale certificate and various other documents to establish ownership whereas defendants examined four witnesses and brought on record documents jamabandies for the year 1979-80 as Ex.D1 and D2, for the year 1983-84 as Ex.D3, khasra girdawari 1980-81 as Ex.D4 to D6.

The trial Court by noticing the report of roznamcha dated 27.08.1976 Ex.P9 decreed the suit for possession into plaintiff in lieu of allotment. The appeal laid before the lower Appellate Court was also dismissed.

Learned counsel appearing on behalf of the appellants submitted that the khasra numbers referred to above i.e. 15//23 and 24 were exchanged with khasra number 25/23(2-12) and 24/2(5-8) during the life time of Surjan Singh and after his demise, respondents were cultivating the land. Jamabandies Ex.D1, D2 and D3 and the khasra girdawaries Ex.D4 to D6 reflected the exchange of the aforementioned property. Even mutation bearing No.68 in this regard was sanctioned.

Learned counsel appearing on behalf of the respondents

submitted that factum of exchange was not reflected in the revenue record neither any witnesses to the oral exchange has been examined whereas the plaintiffs, as per the certificate of sale and allotment proved the ownership. No person without any title and ownership can occupy the suit land and therefore, decree for possession has rightly been passed.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of learned counsel appearing for the appellants. Defendants have not been able to establish authorized possession of the suit land in the absence of proof of exchange. Jamabandies did not reflect exchange entered into by Surjan Singh but was some other piece of land. In such circumstances, the trial Court did not commit any illegality and perversity in ordering possession. In fact, defendants were not able to link the suit property with the exchange.

In view of the aforementioned facts, concurrent finding of fact and law rendered by the Courts below cannot be faulted with, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 11, 2018
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No