

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.3233 of 2011 (O&M)

Date of Decision: February 02, 2018

Ahmed Hassan Shah (deceased) through L.Rs. & others

...Appellants

Versus

Mohammad Sadiq (deceased through L.Rs.) & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Arun Jindal, Advocate,
for the appellants.

Mr.G.S.Bhatia, Advocate,
for respondent Nos.2 to 6.

AMIT RAWAL, J. (Oral)

Appellant-defendant is in Regular Second Appeal against the concurrent findings, whereby the suit preferred by the respondent-plaintiffs claiming declaration that plaintiff Nos.1 to 4 are owners in possession of land measuring 13 kanals 5 marlas and plaintiffs No.5 and 6 are owners in possession of land measuring 13 kanals 17 marlas and 1 kanal 1 marla fully described in the head note of the plaint and for permanent injunction restraining the defendants from taking forcible possession of the suit land, has been decreed.

Mr.Arun Jindal, learned counsel appearing on behalf of the appellant-defendant submits that in the aforementioned suit, which was based upon the revenue record, the defence of the appellant-defendant was that in the year 1965, there was an exchange deed dated 30.10.1965, whereby one Fattu gave the disputed land to Rehme Shah son of Chaman Singh, Table Hussain, Mohd.Hussain son of Kheru Singh, Ramzan son of Dasaundi and Nazir Shah son of Dasandi. Copy thereof has been produced

on record as Ex.D1, but unfortunately the entries in the revenue records could not be got recorded, resulting into transfer of land in the names of the respondent-plaintiffs. The said error continued and, therefore, the plaintiffs could not claim the declaration and injunction. The Courts below have not taken into consideration the aforementioned document. The defendants had never denied that they have been causing wrongful loss to the plaintiffs or wanting to take forcible possession.

He further submits that an FIR bearing No.13 dated 24.1.2003 was also registered at Police Station, Malerkotla against the plaintiffs by the defendants as they were attempting to take forcible possession, but both the Courts below have erroneously decreed the suit. No documents have been proved on record whereby the possession allegedly was delivered to the plaintiffs after partition. In the absence of the same, the injunction could not have been granted.

Per contra, Mr.G.S.Bhatia, learned counsel representing respondent Nos.2 to 6 submits that the concurrent findings cannot be interfered with unless and until there is a gross illegality and perversity. The ownership of the property had been proved by bringing on record the revenue record, i.e., the jamabandi for the year 1993-94 (Ex.P1), copy of jamabandi for the year 1998-99 (Ex.P2), khasra girdawari for the years 1995-96 to 1998-99 (Ex.P3), khasra girdawari for the year 1999-2000 to 2001-02 (Ex.P4) and Sanad Takseem mark-A, jamabandi for the year 1966-67 (Ex.P5) and jamabandi for the year 1998-99 (Ex.P6). All these documents have proved the ownership and possession of the plaintiffs and rightly so, the Courts below decreed the suit.

He also submits that the khasra numbers were changed in the

year 1966 and the changed khasra numbers could not have been entered in the revenue record, therefore, the alleged exchange was a forged document, much less there was some overwriting.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the appellant-defendant, for, the revenue record, as relied upon, carries a presumption of truth under Section 34 of the Indian Evidence Act unless and until the same is rebutted. The appellant-defendants have not produced on record any direct, cogent or corroborative evidence to rebut the same and rightly so, the Courts rendered the findings by relying upon the aforementioned documents and by discarding the exchange deed. The concurrent findings, in my view, do not enable me to form a different opinion than the one already arrived at.

There is another aspect of the matter. Even the khasra girdawaries proved on record showed the possession of the respondent-plaintiffs. If at all, the exchange deed had taken place, the parties would have actually been cultivating the land *de hor* of the fact that the same was not recorded in the revenue record. It itself shows an attempt to thwart the claim of the respondent-plaintiffs.

For the reasons stated above, no ground for interference is made out. No substantial question of law arises for determination. Resultantly, the appeal is dismissed.

February 02, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No