

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

1. RSA No. 85 of 2011

Narender Kumar ...Appellant

Versus

Usha Rani and another ...Respondents

2. RSA No. 1144 of 2011

Rakesh Kumar ...Appellant

Versus

Usha Rani and others ...Respondents

3. RSA No. 1145 of 2011

Rakesh Kumar ...Appellant

Versus

Usha Rani and another ...Respondents

Date of decision:- 28.02.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

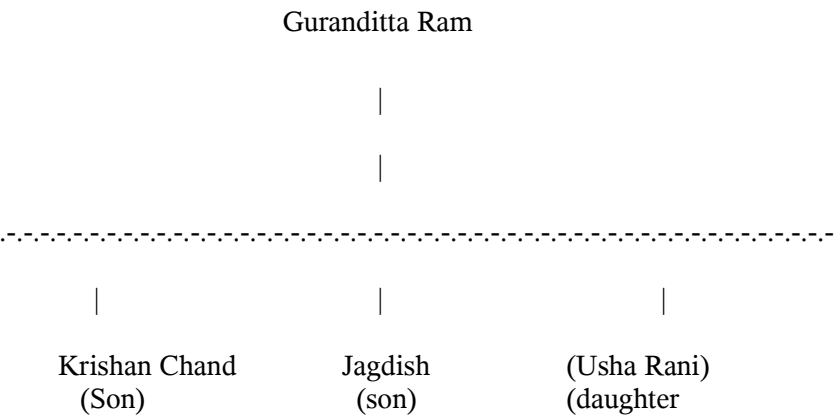
Present:- Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Prashant Thakur, Advocate
for the appellant (s) in all the appeals

Mr. Sandeep Khunger, Advocate for
for respondent No. 1 in all the appeals

RITU BAHRI J. (Oral)

1. The above said three appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned judgments and decrees dated 30.07.2009 and 30.04.2010 passed by both the Courts below whereby the suit filed by Usha Rani was decreed and was upheld by the Appellate Court to the effect that she is the owner in possession of the suit property and defendants were restrained from interfering in to the peaceful possession of Usha Rani.

2. There is no dispute between the parties that they are related to each other in the following manner:-



2. Initially Usha Rani filed a suit claiming that she is owner in possession of the agricultural land measuring 32 kanals bearing Khasra Nos. 25/9 (8-0), 10 (8-0), 12 (8-0) situated in village Bharpur, Tehsil Ratia District Fatehabad and the defendants-appellants herein inspite of having no right, title or interest, are threatening to interfere into her possession and to illegally harvest the standing crop by use of force. She prayed for a decree of permanent injunction against Ramesh Kumar and Narender Kumar.

Both the appellants filed their separate written statement stating that Usha Rani is not in possession of the suit land and rather Narender Kumar is in actual cultivating possession of Khasra No. 25//11 (8-0) and 12 (8-0) while the other two khasra Nos. 25//9 (8-0) and 10 (8-0) are in possession of Rakesh as tenant on 1/3rd batai. The suit has already been filed by Narender Kumar and Rakesh Kumar for correction of khasra girdawai.

The learned trial Court dismissed the suit of the appellants and decreed the suit of Usha Rani and held that the oral family settlement as alleged by Rakesh Kumar to claim that his grand mother had given him 80 kanals of land and he was inducted as tenant over 16 kanals of land given to

Usha Rani, has not taken place and the relinquishment deed dated 23.05.2002 executed by Milavi Bai in favour of Usha Rani is valid.

Thereafter Rakesh Kumar preferred two appeals, one against decreed passed in favour of Usha Rani and the other against the decree dismissing his own suit while Narender Kumar has preferred a separate appeal against the decree passed against him in the suit filed by Usha Rani.

The Lower Appellate Court dismissed the suit of the appellants on the ground that they have not been able to prove their status as tenant over the land belonging to Usha Rani. It has been held that mere existence of house on Khasra No. 25//11 would not prove that they appellant is a tenant until or unless it is proved that the said house was constructed by none else than the appellant. No witness was examined to show that the house was constructed by Narender Kumar. No documentary proof has been led by the appellants regarding their tenancy and even their names have not at all recording in any capacity whatsoever over the suit land.

After going through the judgments passed by both the Courts below, the appeals are liable to be dismissed as the suit land was agricultural land and comprised in Khsara No. . 25//9 (8-0), 10(8-0), 11 (8-0), 12 (8-0). It measures 32 kanals. The suit land in respect of ownership as well as possession is duly reflected in the revenue record. It is the admitted case of the parties that the suit land was owned by one Guraditta Ram, the grandfather of Rakesh Kumar and Narender Kumar and father of Usha Rani. After death of Guraditta Ram, the suit land transferred in the name of Milawi Bai, the grandmother of appellant and mother of Usha Rani, who vide release deed No. 567 dated 23.05.2002, released the suit land in favour

of Usha Rani and mutation No. 582 dated 29.05.2002 was also sanctioned in

respect of the suit land in favour of Usha Rani. Her name stands entered in the jamabandi for the year 2001-02 Ex P-1 showing her owner in possession of the suit land. Merely on the basis of entries in Nehri Girdawari, the presumption of correction attached to the entries in the jamabandi in respect of ownership and possession cannot be rebutted. It has been rightly held that no oral settlement took place between the parties therefore, the release deed dated 23.05.2002 cannot be declared null and void.

Learned counsel for respondent No. 1 has further clarified that the suit filed by plaintiff-Usha Rani was for possession of agricultural land measuring 32 kanals. She gave this 32 kanals of land to appellants i.e 16 kanals each on which they are claiming they are tenants

Accordingly, the judgments and decree passed by both the Courts below do not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeals are dismissed.

February 28, 2018
G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No