

DIWAKER GULATI
2018.09.25 12:40

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

RSA No.1045 of 2016(O&M)

Date of decision:23.8.2018

Mahabir

.....Appellant

VERSUS

Guggan dead through LRs and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ramender Chauhan, Advocate for the appellant.

REKHA MITTAL, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts below whereby suit filed by respondent-Guggan (since deceased) now represented by his legal representatives (in short 'LRs') claiming himself to be a co-tenant in the suit land was decreed by the trial court and appeal preferred by defendant/appellant remained unsuccessful before the first Appellate Court.

The plea of the respondent/plaintiff is that Chuna son of Goverdhan was in cultivating possession of land detailed in para 1 (un-numbered) of the judgment of trial Court to the extent of 1/3rd share and he was paying Rs.9.5 as chakota per year as per jamabandi for the year 1963-64, 1988-89, 2003-04. In the Jamabandi for the year 1963-64, Chuna was recorded as *gair marusi* to the extent of 1/3rd share but later Mam Chand in collusion with revenue officials got his name entered in place of Chuna. Chuna used to cultivate 1/3rd share of the land in question and the same is

now cultivated by plaintiff and defendants. The name of Mam Chand in Jamabandi for the year 1988-89 has been entered illegally and name of the plaintiff is liable to be incorporated in the revenue record along with the defendants. Defendants no.1 and 2 including the present appellant filed the written statement and averred that till 1963-64, land was cultivated by Chuna to the extent of 1/3rd share and Chuna gave land to Mam Chand for cultivation and other successors of Chuna went to some other villages. The members of Thok Khola Patti had given the land to the defendant with the condition that land had to be given for cultivation only to that person who would stay in village Lisan. All other materials averments of the plaint have been denied with a prayer for dismissal of the suit.

Counsel for the appellant, in response to a query, would fairly inform that Guggan is the successor in interest of Chuna who was in cultivating possession of suit land, recorded in Jamabandi for the year 1963-64. He has also not denied that the respondent/plaintiff never surrendered tenancy rights to the extent of his share being successor in interest of Chuna. In this view of the matter, I do not find an error much less perversity in consistent findings of fact recorded by the Courts warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

AUGUST 23, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no