

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: November 21, 2018

1. RSA No.2180 of 2016 (O&M)

Ajit Singh (since deceased) through L.Rs & others

...Appellants

Versus

Satnam Singh

...Respondent

2. CR 4574 of 2017 (O&M)

Ajit Singh (since deceased) through L.Rs & others

...Appellants

Versus

Satnam Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. R.K.Arya, Advocate,
for the appellants in RSA No.2180 of 2016.

Mr.Dheeraj Mahajan, Advocate,
for the petitioners in CR No.4574 of 2017

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two cases, i.e., RSA No.2180 of 2016 and Civil Revision No.4574 of 2017 at the instance of the defendants. The facts are being taken from RSA No.2180 of 2016.

Respondent-plaintiff sought possession of the land measuring 3 kanals 6 marlas comprising of Rect. No.6, Killa No.2/1/2 (3-6), Khewat No.28, Khatauni No.48 on the basis of the title. It was alleged that the defendants had unauthorisedly taken the possession of the aforementioned land on the basis of the mutation, which was not in accordance with the

revenue record.

The defendants contested the suit and denied the ownership of the plaintiff.

In order to lend support to the aforementioned averments, plaintiff examined himself as PW-1 and PW-2 Yashpal Office Kanungo and brought on record application Ex.P1, certified copy of reply Ex.P2, certified copy of order Ex.P3, certified copy of statement Ex.P4, certified copy of produce estimate Ex.P5, jamabandi for the year 2003-04 Ex.P6, khasra girdawari Ex.P7 and rent receipts Ex.P8 to Ex.P11.

On the other hand, the defendants examined five witnesses, namely, DW-1 Bachan Singh defendant No.4, DW-2 Kulwinder Singh, DW-3 Gurdial Singh, DW-4 Navjot Singh Halqa Patwari and DW-5 HC Sarwan Singh and also brought on record various documentary evidence.

The sole contention, which has been raised before this court, is that defendants claimed ownership of the property on the basis of mutation No.1566, but that did not weigh in the mind of the courts below, for, as per candid admission, the same was rejected on 18.02.1982 as it was based upon the incorrect revenue record. It is settled law that the mutation does not confer any title. The trial court, in such circumstances, decreed the suit by holding the plaintiff to be owner in possession of the suit land. Since the relief of possession was sought, plaintiff also chose to file the cross objections along with the appeal preferred by the defendants, but the same were dismissed with liberty to move an appropriate application under Sections 151/152 CPC, whereas the appeal of the defendants was dismissed. After receipt of the application under Sections 151/152, the trial court modified the decree against which revision has been filed.

I have heard the learned counsel for the appellant-defendants, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel, for, the claim on the basis of mutation No.1566 of ownership and possession could not be established in view of the admission of cancellation of the same way back in the year 1982. The documentary evidence placed on record had established the ownership of the plaintiff.

The trial court, in my view, has correctly modified the decree as the relief sought was for possession.

For the reasons stated above, I do not find any illegality or perversity in the impugned judgments and decrees of the courts below, which are based upon appreciation of evidence. No ground for interference is made out. Resultantly, the appeal is dismissed. Consequently, the revision petition is also dismissed.

November 21, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No