

RSA No. 1148 of 2015 (O&M)
RSA No. 1237 of 2015 (O&M)

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

**RSA No. 1148 of 2015 (O&M)
Date of decision: 16.5.2018**

Kuldeep Singh

... Appellant

Versus

Prem Singh (since deceased) through legal representatives

... Respondents

2

RSA No. 1237 of 2015 (O&M)

Kuldeep Singh

... Appellant

Versus

Prem Singh (since deceased) through legal representatives

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sandeep Verma, Advocate, for
Mr. Tejinder Pal Singh, Advocate
for the appellant.

ARUN PALLI, J. (Oral)

Vide this common order and judgment, I shall decide both these appeals, i.e. RSA Nos. 1148 and 1237 of 2015, as these arise out of the same suit.

The suit filed by the appellant was dismissed by the trial court, vide judgment and decree dated 17.10.2011, whereas the counter-claim preferred by the defendant was accepted. As the appeals preferred against the said decree failed, and were dismissed on 16.8.2014, the appellant is in Regular Second Appeals. Parties to the lis, hereinafter, shall be referred to

RSA No. 1148 of 2015 (O&M)
RSA No. 1237 of 2015 (O&M)

by their original positions in the suit.

The plaintiff sought a declaration that he was the owner in possession of land measuring 9 marla, comprised in khewat No. 258, Khatoni No. 362, rectangle No. 65, killa No. 13/2 (0-9), situated at village Arnoli, Tehsil Guhla, District Kaithal, and the entry in the jamabandi showing defendant to be the owner was wrong and illegal. And, for injunction, restraining the defendant from causing any interference in his possession. In brief, the case set out by the plaintiff was that the suit land was initially owned and possessed by his grandfather, i.e. Ram Singh, son of Narain Singh, who sold the same to the father of the defendant, namely Jit Singh alias Ranjit Singh. However, father of the defendant never obtained possession thereof. Subsequently, pursuant to a mutual settlement in a panchayat, a plot in the *abadi deh/lal lakir* of the village was exchanged by Ram Singh with the suit land. Resultantly, Jit Singh acquired the plot situated in the *abadi deh*, and in lieu thereof surrendered the suit land. Thus, the plaintiff is the owner of the suit land, and in the alternative, if the exchange is not proved, he has perfected his title by way of adverse possession.

In the written statement filed by the defendant, he controverted the claim of the plaintiff, and claiming himself to be the owner prayed for possession of the suit property, by way of counter claim.

On a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that the fact: suit land was sold by the grandfather of the plaintiff to the father of the defendant was never in dispute. The suit property was concededly mutated vide mutation

RSA No. 1148 of 2015 (O&M)
RSA No. 1237 of 2015 (O&M)

No. 1032, dated 22.3.1969, in favour of Jit Singh alias Ranjit Singh. The oral exchange, pursuant to which the suit property was alleged to have been exchanged with a plot in *abadi deh/lal lakir* of the village, remained unproved. Nothing was brought on record either to show that the alleged exchange was ever acted upon. If, indeed, a plot in *abadi deh/lal lakir* was transferred to Jit Singh, in lieu of the suit land, the plaintiff ought to have led an appropriate evidence in this regard. However, nothing was brought on record to show if Jit Singh ever occupied the said site or any evidence as regards its usage. In so far as the plea of the plaintiff that he perfected his title by way of adverse possession, suffice it to say that such a plea could only be set up in defence, the plaintiff could not seek any such declaration. For, ownership of the defendant qua the suit property was established, his counter-claim was accepted, and a decree for possession was granted in his favour. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show as to how, the findings recorded by both the courts were either contrary to the record or suffered from any material illegality.

No question of law, much less any substantial question of law, arises for consideration. The appeals being devoid of merit, are accordingly dismissed.

16.5.2018
AK Sharma

(ARUN PALLI)
JUDGE

Whether speaking / reasoned:	YES
Whether Reportable:	NO