

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

RSA No.3524 of 2016 (O&M)

Date of decision : 21.11.2018

Gulzar Singh

...Appellant

Versus

Piara Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Prateek Sodhi, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-appellant is in the Regular Second Appeal against the findings arrived at by both the Courts below.

The plaintiff claimed that he alongwith defendant Nos.2 to 5 are owners of the property and defendant No.1 took the land on lease at the rate of ₹15,000/- per acre per year but thereafter refuse to pay the amount.

The defendants contested the suit and defendant No.1 pleaded that he has never taken the land on lease and in fact he has purchased the possessory rights from Harjit Singh who was in adverse possession vide registered sale deed dated 15.05.1997.

Learned trial Court decreed the suit filed by the plaintiff and disbelieved the case set up by the defendant that he has perfected his title by way of adverse possession. In the first appeal preferred by defendant No.1, only plaintiff appeared and suffered a statement that he admits the claim of

defendant-appellant. He was accompanied by his counsel.

However, learned First Appellate Court dismissed the appeal on the ground that the aforesaid compromise cannot affect the revenue record. The findings recorded by the learned First Appellate Court in para 13 of the judgment is extracted as under:-

“In the present appeal no doubt Piara Singh plaintiff appeared in the trial with counsel and effected compromise and admitted the claim of the applicant/defendant No.1. Piara Singh plaintiff/respondent is happened to be more than 80 years old. He came alone in the court alongwith his counsel. This court is of the considered opinion that no doubt compromise has been effected between the parties and statement is given. But this compromise cannot affect the revenue record. The defendant/appellant is entitled to get appropriate relief as per law and court cannot go beyond the documentary evidence on record. So in view of above discussion, both the said appeals filed by appellant/defendant No.1 Gulzar Singh to set aside the impugned judgment and decree dated 10.9.2015 of the lower court and to decree the counter claim are devoid of merits and same are hereby ordered to be dismissed with costs.”

In the considered view of this Court, the reasoning given by the learned First Appellate Court is erroneous as only the suit filed by the plaintiff was to be dismissed. In view of the compromise, no direction was required to be issued for correcting the revenue record.

In fact, no declaration in favour of the defendant-appellant was required to be given. Only the suit filed by the plaintiff was to be dismissed. Once the First Appellate Court was satisfied that the parties have entered into compromise and a statement on the basis thereof has been given by the

plaintiff, there was no reason to dismiss the appeal.

Keeping in view the aforesaid facts, the judgment and decree passed by the Courts below are set aside. The suit filed by the plaintiff shall stands dismissed.

Regular Second Appeal is allowed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

21.11.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No