

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**C.Ms. No.6855-6856-C of 2015 in/and
RSA No.2742 of 2015
Date of Decision: 20.02.2018**

Gurvinder Singh ... Appellant

Versus

Sukhwinder Singh & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. N.K. Manchanda, Advocate,
for the appellant.

RAMENDRA JAIN, J.(Oral)

C.M. No.6855-C of 2015

For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed. Delay of 22 days in filing the appeal is condoned.

RSA No.2742 of 2015(O&M)

Through this regular second appeal, challenge has been laid to the concurrent findings of both the courts below dismissing the suit of the appellant for permanent injunction and the appeal as well.

In nutshell, the appellant claiming himself to be in possession of the suit land measuring 15 kanals 13 marlas situated at Village Maste Ke, Tehsil and District Ferozepur, Punjab, owned by the State Government, filed a suit for permanent injunction against the respondents pleading that earlier the revenue record showed possession in his favour, but the revenue authorities illegally and unauthorizedly vide rapats No.483 and 1013 changed the entries in favour of the respondents without issuing any notice to him.

Under the garb of the said wrong revenue entries, the respondents were adamant to dispossess him from the suit land illegally and forcibly.

The trial Court after holding trial, non-suited the appellant by dismissing his suit vide judgment and decree dated 07.01.2013.

Being aggrieved, the appellant approached the First Appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment and decree dated 05.01.2015.

Learned counsel for the appellant contends that both the Courts below failed to appreciate that according to Punjab Land Revenue Act, 1887, the revenue authorities were bound to issue notice to the appellant before any change in the revenue record, which was earlier coming into his favour. The change in the entry qua possession in favour of the respondents without notice to the appellant by the revenue authorities is liable to be set aside.

Having given thoughtful consideration to the submissions made by learned counsel for the appellant, I find that the instant appeal is completely devoid of any merit for the reasons to follow:-

1. An earlier suit with the same relief filed by the appellant was dismissed in default for want of prosecution. Therefore, the subsequent present suit for the similar relief of the appellant is barred by the doctrine of "*res judicata*".
2. Undisputedly, prior to year 2000, the entries qua possession of the suit land were coming in favour of one Raj Kumar son of Jumma. Thereafter, the same were changed in favour of the appellant and subsequently, in favour of the respondents in the year 2002. The appellant-plaintiff did not

lead any evidence as to in what circumstances the revenue authorities changed the entries in his favour qua possession from Raj Kumar son of Jumma. The appellant also did not bring any evidence on record as to whether the entries in his favour were changed in the year 2000 from Raj Kumar son of Jumma by issuing any notice to him. Since the appellant himself did not lead any evidence to this effect, therefore, he cannot agitate that revenue authorities were required to issue prior notice to him before change of entries qua possession of the suit land in favour of the respondents.

3. It is pertinent to mention that girdawaris qua possession are made twice in a year by the revenue authorities in routine which is a regular feature by physical verification on the spot. Since the respondents were found in cultivating possession of the suit land, therefore, the revenue entries were changed in their favour for which no notice was required to be issued to the appellant on the basis of physical verification of the spot.

4. The suit is bad under the proviso of Order 1 Rule 9 CPC inasmuch as the State Government, which is admittedly owner of the suit land, though was necessary party, was not impleaded as a party. Therefore, in its absence, no rights whatsoever over the suit land could be determined.

5. The appellant is miserably failed to lead any evidence regarding possession of the suit land.

I have gone through the impugned judgments of the Courts below and found no illegality or perversity in the same.

The appeal is dismissed.

20.02.2018
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(RAMENDRA JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>