

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-608-2016 (O&M)

Date of decision: August 13, 2018

Harbhajan Singh

...Appellant

Versus

Jaspal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. G.S. Nagra, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of Additional District Judge, Amritsar, vide which judgment/decreed passed by the trial court has been set-aside and suit filed by plaintiff/respondent has been decreed, on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent Jaspal Singh filed a suit against the appellant for permanent injunction, restraining defendant from interfering into his possession over the land measuring 04 Kanals 04 Marlas, situated in the revenue estate of village Salempura, Tehsil Ajnala, District Amritsar, with the averments that plaintiff has purchased possessory rights of the suit land from Kashmir Singh son of Charan Singh for a consideration of Rs.1,31,250/-, vide agreement dated 16.11.2004. Arwinderpal Singh Aulakh and Sarpanch Baljit Singh were witnesses to the said agreement. Kashmir Singh was recorded as owner in the

Jamabandi, whereas Punjab Government is incorporated as *Basara Malkan* and *Gair Marusi Awal* in the column of cultivation. Thus, Punjab Government is deemed to be owner of the suit property and plaintiff is in cultivating possession of the same as *Gairmarusi Dom* and he is paying rent of Rs.500/- per month. Plaintiff had already deposited the rent with the Government for getting the ownership rights. Earlier Kashmir Singh was in cultivating possession, who transferred the same in favour of plaintiff. Thus, defendant had no concern with the suit land, as he never remained in possession thereof. Defendant resisted the suit. In his written statement he averred that he is owner in possession of the land in question and thus, Kashmir Singh had no right to sell the possessory rights. In the previous litigation against the Punjab Government, defendant had been declared as owner in possession of the suit land. Defendant had filed a suit for correction of revenue record, which is pending in the civil court at Ajnala. Punjab Government had no right, title or interest in the land in question. On the other hand, defendant alongwith Baghail Singh and descendants of Charan Singh had been declared as owner in possession of the said land. Execution of the agreement dated 16.11.2004 was also denied. Vide judgment and decree dated 18.4.2014, the trial court dismissed the suit filed by the plaintiff. Aggrieved, plaintiff filed appeal before the first appellate court. Vide judgment and decree dated 22.7.2015, passed by Additional District Judge, Amritsar, appeal filed by respondent/plaintiff was allowed and his suit was decreed, granting him a decree of permanent injunction, restraining defendant from dispossessing him from the suit property

except in due course of law. It observed that defendant/appellant had failed to show that judgment and decree dated 20.3.1986 declaring him as owner in possession of the land in question, was implemented upon, as it was not reflected in the revenue record.

I find no infirmity with the observations made by the first appellate court. As per Jamabandi for the year 2006-2007 (Ex.P-2), Kashmir Singh and others including appellant Harbhajan Singh are owner of the suit land and Punjab Government has been shown in the column of cultivation. Plaintiff/respondent has been shown as *Gairmarusi Dom*. After agreement dated 16.11.2004 (Ex.P1), plaintiff/respondent has been continuing in possession of the same as Kashmir Singh had sold possessory rights to the plaintiff. Only plea raised before this court is that judgment of the first appellate court is based on misappreciation of evidence as well as law. I find no substance in this plea. No other substantial question of law has been urged. The appeal is without any merit and same is hereby dismissed.

(RAJAN GUPTA)
JUDGE

August 13, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No