

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

RSA No.472 of 2015 (O&M)

Date of decision : 12.10.2018

Tejram (deceased) through his LR's and others

...Appellants

Versus

Dharampal

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Jain, Advocate for the appellants.

Mr. N.D. Achint, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below while decreeing the suit for declaration with consequential relief of permanent injunction.

The plaintiff claimed that the entries in the revenue record are wrong and the Land Acquisition Collector shall be restrained from disbursing the compensation payable on account of compulsorily acquisition of the land.

The defendants contested the suit and pleaded that they are tethering the cattle on the land in dispute for the last 50 years.

In fact, during the course of arguments, the defendants took three different stands:-

1. They have acquired the status of occupancy tenants.
2. They have become owners by way of adverse possession.
3. They have purchased the property.

Both the Courts on appreciation of the evidence, have found that the defendants have failed to prove their case. No doubt, in the jamabandi for

the year 1960-61, 1966-67 and 1971-72, the defendants are shown to be in possession on account of exchange. However, no evidence has been led to prove how this entry of exchange appeared in column No.9. Still further, jamabandi from the year 1976-77 does not show that the possession of the defendants is on account of exchange. This entry continues upto the date of filing of the suit when the land was compulsorily acquired. Still further, both the Courts have found that the land is banjar qadim for the last more than 50 years, hence, not cultivable. The Courts have held that since it is a plain land being not cultivable, therefore, the possession follows title with respect to the vacant land.

The defendants-appellants have failed to prove either source of their entry with regard to exchange or failed to produce any evidence to prove their possession over the land in dispute. The defendants have taken a plea that they are tethering cattles, however, by constructing boundary wall and room which is not proved from the revenue record. There is no entry of land being gair mumkin.

In such circumstances, this Court does not find any ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

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

12.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No