

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

RSA No.1100 of 2017 (O&M)

Date of decision:12.11.2018

Fajru and another

... Appellants

Vs.

Gram Panchayat Sangel and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Randhir Singh Hooda, Advocate
for the appellants.

AMIT RAWAL J.

The appellant-plaintiffs have not been successful in seeking declaration to be in actual physical and cultivating possession of ½ share of Kallu, Jumma and Bheeku in the suit land described in para 1 of the plaint by asserting that the defendants had no right in the suit land alongwith permanent injunction.

The plaintiffs filed the suit on the premise that they had been in cultivating possession as Bhondedaran of the suit land to the extent of ½ share and remaining ½ share was under the cultivation of Kallu, father of defendants no.2 and 3, Jumma and Bhiku. Said Jumma and Bhiku died issueless and they were succeeded by the plaintiffs as Kallu, left the village during life time and settled in different village Nangal Sahapur. Kallu with the consent of defendant no.1 relinquished the cultivation right in the suit land in favour of the plaintiffs, therefore, the plaintiffs had been in

cultivating possession of the suit land but the revenue entries did not reflect the same.

The defendants opposed the suit and defended the entries in the revenue record. Both the parties brought on record the revenue record I.e., Ex.P1 to Ex.P4, Mark A&B, Mark C and Ex.D1 to Ex.D11, Mark-A.

On the basis of the evidence, the trial Court dismissed the suit and the appeal taken before the Lower Appellate Court was also dismissed.

Mr. Randhir Singh Hooda, learned counsel appearing on behalf of the appellants submitted that PW3-Lakhan Singh son of Bhanwar Singh categorically acknowledged the suit land to be Bhondedari and the plaintiffs have been found to be taking care of Peer and Kabristan. DW1-Munshrif during cross-examination admitted that Fajru was his cousin. PW4-Lakhan Singh son of Har Chand Singh proved that the defendants were not residing in the village. The plaintiffs produced on record ample evidence to establish the pleadings as culled out in the plaint. The impugned entries in the name of defendants were wrong and ineffective.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, it has been proved on record that ancestor of the plaintiffs alongwith ancestor of defendants had been in cultivating possession of the suit land as Bhondedar but after the death of ancestors, Bhondedar rights were inherited by the plaintiffs and defendant no.2. The plaintiffs have miserably failed to prove on record the relinquishment of right in their favour as alleged, rather PW1 in cross-examination feigned ignorance with regard to transfer of the property, much less relinquishment.

Except bald averment in the plaint, no documentary evidence with regard to relinquishment had been produced on record, thus, in such circumstance, entries with regard to other 1/2 share after demise of ancestor continued to be in the name of private defendants and therefore, the plaintiffs could not lay claim and rightly so the relief has been declined.

As an upshot of my findings, arguments of Mr. Randhir Singh Hooda, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 12, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No