

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1267-2018 O&M)
Date of decision: 01.05.2018

Harnam Singh and others

...Appellants

V/s.

Janak Singh (deceased) through
his legal heirs and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. R.K. Agnihotri, Advocate for the appellants.

RITU BAHRI, J. (Oral).

The appellants have come up in the appeal against the judgement of the trial Court and the lower appellate Court whereby their counter claim have been dismissed.

The appellants had relied on jamabandi (Ex.P-8) qua the land measuring 276 Kanals 16 Marlas and were seeking the permanent injunction restraining the plaintiffs and other defendants from this land. The counter claim had been dismissed on the ground that there was no documentary evidence such as Khasra Girdawari and moreover the defendants No. 32 and 36 are died and their LRs have not been impleaded in the counter claim. In the counter claim, there was challenge to the action of the revenue authorities on bifurcation of khewat and none of the officials of the revenue authorities have been made as a party.

The appellants had sought a declaration to club the khewats bifurcated from the original khewat and this proceedings can be made by

the appellants under the Punjab Land Revenue Act, 1887. The appellants had also sought relief of removing the party of mortgage of Canara bank on the land mortgaged by Amar Singh son of Badan Singh, defendant No. 26.

A perusal of the jamabandi (Ex. P8) shows that the entry regarding mortgage by Amar Singh had been made vide rapat 171/08.01.2000. Meaning thereby the mortgage by Amar Singh had taken place before 08.01.2000 and the counter claim had been filed on 01.02.2014. There were subsequent mortgages dated 27.10.2005 in Ex. P8 which were in the knowledge of the appellants-counter claimants by Amar Singh and no attempt was made to make the bank as a party in this case.

A perusal of the trial Court judgment shows that neither bank nor the officials of revenue authorities have been made as a party and the LR's of the defendants no. 32 and 36 have not been impleaded after their death. The counter claim has been rightly dismissed.

Learned counsel for the appellants seeks to withdraw this RSA to enable him to take alternate remedies before the appropriate forum in accordance with law.

Dismissed as withdrawn.

(RITU BAHRI)
JUDGE

May 01, 2018
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No