

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 1878 of 2017(O&M)

Date of Decision: 19.9.2018

Jagdish and another

---Appellants

versus

Maha Singh alias Mahia alias Mai Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Parminder Singh, Advocate
for the appellants**

Rekha Mittal, J.

CM No. 4546-C of 2017

Prayer in this application is for condoning delay of 4 days in filing the appeal.

Heard.

Allowed as prayed for. Delay of 4 days in filing the appeal stands condoned.

Disposed of accordingly.

RSA No. 1878 of 2017

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for permanent injunction against dispossession qua land measuring 18 kanals 2 marlas comprised in Rect No. 13 Killa Nos.17/2 (2-14), 18(7-13), Rect. No. 14, Killa No. 11/2(2-7) khatoni No. 344, Rect. No. 14, Killa No. 19/2(4-8) and 20(1-0) situated

in village Goli, Sub Tehsil Ballah, District Karnal as per jamabandi for the year 1998-99 and khasra girdawari, was decreed by the trial court on 22.8.2013. The appeal preferred by unsuccessful defendants-appellants did not find favour with the Additional District Judge, Karnal and resultantly, findings of the trial court have been affirmed without any variance.

The respondent-plaintiff has claimed to be in possession of suit land for the past more than 20 years and in support of his contention, he has produced documents Ex. P1 to P5 etc. jamabandis and khasra girdawari for the year 2004 recording the respondent-plaintiff to be in possession of the suit land. On the contrary, plea of the appellants-defendants is that suit land was given to them in exchange by Maha Singh @ Mahia @ Mai Singh and they have been found to be in possession of suit land, in view of report Ex. D1 dated 19.9.2012 prepared by Dilawar Singh Patwari and later the khasra girdawari has been corrected in the name of appellants-defendants.

Counsel for the appellants would urge that in view of the latest report prepared by the Patwari and order of correction of khasra girdawari, it falsifies and belies plea of the respondent-plaintiff that he is in possession of land comprising killa Nos. 17/2 and 18 min East which is found to be in possession of the appellants. It is further argued that report prepared by the Patwari is sufficient to rebut correctness of entries recorded in the jamabandi.

I have heard counsel for the appellants and perused the paper book particularly the judgments impugned.

The respondent-plaintiff has claimed relief of injunction primarily on the ground that he is in possession of the suit land and his possession is reflected in the revenue documents since the year 1993-94.

The suit was instituted in the year 2005 and came to be decided by the trial court on 22.8.2013. Counsel for the appellants has failed to point out any materials brought forth in cross examination of the plaintiff to challenge his veracity and evidential value of his testimony with regard to possession of suit land, duly corroborated by entries in jamabandis and khasra girdawari. On the other hand, the appellants have sought to rely upon the report Ex. D1 and order of correction of khasra girdawari which was prepared during pendency of the suit before the Civil Court. As per the settled position in law, once the matter with regard to possession of agricultural land is pending before the Civil Court, the revenue authorities cannot seize of the matter and allow correction of khasra girdawari. That being so, the appellants cannot derive any advantage to their contention from the report Ex. D1 and order of correction of khasra girdawari made during pendency of the suit. The appellants-defendants have failed to substantiate their plea that they are in possession of any part of suit land which disentitles the respondent-plaintiff to seek injunction in this regard. I do not find an error much less perversity in the concurrent findings recorded by the courts, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

19.9.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No