

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 2351 of 2017(O&M)
Date of Decision:27.9.2018

Taken (deceased) through LRs and others

---Appellants

vs.

Ved Parkash and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sudhir Aggarwal, Advocate
for the appellants

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration with consequential relief of permanent injunction filed by the respondents-plaintiffs was partly decreed in view of findings on issue No. 1 recorded by the trial court.

The respondents-plaintiffs sought declaration to the effect that entries in jamabandi for the year 1984-85 and subsequent jamabandis recording appellants-defendants No. 1 to 8 as co-sharers/proprietors in suit land, detailed in para 2 of the plaint are illegal, wrong and not binding on the plaintiffs and other co-sharers of Thola Sada Ram, therefore, are liable to be corrected. They also prayed for grant of injunction restraining the defendants from receiving compensation awarded by the Land Acquisition

Collector, Sonapat qua acquisition of land.

The trial court, on appreciation of materials on record when examined in the light of rival submissions made by counsel for the parties, has held in para 13, reproduced hereunder:-

“The land undisputedly belongs to Thola Sada Ram of Village Pritampura. Admittedly, the defendants are of the same Thola and Biswadars. Name of the defendants is also mentioned in Ex. P1 FAHRIST ISHMAY MALKAN. So, all the defendants and also the plaintiffs being proprietors of the Thola Sada Ram have interest in the suit property. On being asked Ld. Counsel for the plaintiff could not explain as to how the defendants despite being the resident and proprietors of the Thola Sada Ram were excluded by the entry of Baastnai. They are recorded in cultivating possession of the suit land and in the column of rent there is an entry BILA LAGAN BAWAJAH HISSAIDAR, which shows that they are in possession of the land as co-sharers/co-owners. So all the proprietors of Thola Sada Ram including parties to the suit have an interest in the suit property. However, it is true that Bahissa Jail recorded in the year 1984-85 is also without any notice and basis to the other proprietors/co-sharers in the property and as such is not binding on the plaintiffs and to the above said extent the entries are liable to be corrected.”

The appeal preferred by the appellants was decided by the District Judge, Sonapat whereby judgment and decree passed by the trial

court were affirmed by holding that the trial court while partly decreeing the suit had taken a right decision and there is no scope for interference or indulgence in the verdict rendered by the learned trial court. The verdict of the trial court deserves to be affirmed and present appeal being devoid of merit deserves dismissal. Consequently, the appeal was dismissed and the impugned judgment and decree were upheld.

Counsel for the appellants is not in a position to successfully assail findings of the trial court that change made in the jamabandi recording the appellants as 'Bahissa Jail' in the year 1984-85 is without any notice and as such is not binding on the respondents-plaintiffs and to that extent entries are liable to be corrected. As per the settled position in law, the revenue authorities are not competent to change entries in jamabandi/khasra girdawari without giving notice to the affected party. In this view of the matter, findings of the trial court to the aforesaid extent do not suffer from an error much less perversity warranting intervention.

Counsel for the appellants would argue that the Court in Appeal has proceeded to say that the appellants are tenants in the suit land, though eventually affirm the judgment and decree passed by the trial court. There cannot be any dispute that no appeal lies against observations made in a judgment. As the Court in Appeal has affirmed the judgment and decree passed by the trial court and the appellants have not been able to assail findings of the trial court by raising a factual or legal controversy, I do not find any reason to interfere in the judgments and decrees passed by the courts.

For the foregoing reasons, the appeal fails and is accordingly

dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

27.9.2018
paramjit

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