

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

**106**

**CM-5915-C-2017 in/and  
RSA-2431-2017 (O&M)  
Date of Decision : 09.10.2018**

Gopal

..... Appellant

Versus

Gram Panchayat, Niyazalipur and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present :- Mr. Anil Kumar Ahluwalia, Advocate  
for the applicant-appellant.

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**AJAY TEWARI, J. (ORAL)**

**CM-5915-C-2017**

For the reasons recorded, the application is allowed. Delay of 8 days in refiling the appeal is condoned.

**RSA-2431-2017 (O&M)**

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit for declaration filed by the appellant.

The appellant had sought a declaration that a mutation dated 07.07.1992 whereby the land was transferred to the ownership of the Gram Panchayat was illegal and he continued to be the owner of the land in dispute. The case of the appellant was that the land was shown as Jumla Malkan Mustarka Malkan Digar Haqdaran Hasab Rasab Rakba and therefore the mutation in favour of the Gram Panchayat was illegal.

Both the courts below found that even if the arguments made by the appellant was to be accepted, it was a pre-condition that he should prove that he was one of the proprietors (Malkan) of the village which he

could not prove. The courts below also found that the appellant had been evicted from the land in dispute about 40 years ago and therefore a simpliciter suit for declaration that he was owner in possession would not lie.

Counsel for the appellant has not been able to persuade me that the findings of fact recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**October 09, 2018**  
*ashish*

**( AJAY TEWARI )**  
**JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No