

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA 3218 of 2017 (O&M)

Dated of decision 26.10.2018

Gurdial Singh (deceased) through his LRAppellant

versus

Jagdish Mittar (now deceased) through his LR & anrRespondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Sandeep Jain, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

CM 7929 – C of 2017

Prayer in this application is for impleading legal representative of applicant/respondent No. 1 – Jagdish Mitter (since deceased).

In view of averments made in the application supported by an affidavit, the application is allowed and person mentioned in para 2 of the application is allowed to be brought on record as legal representative of applicant/ respondent No. 1 Jagdish Mitter (since deceased) for the purpose of present lis, subject to just exceptions.

Main case

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the respondents/defendants from interfering in peaceful possession and dispossessing the plaintiff/appellant (since deceased) now represented by his legal representatives from land measuring 16 kanals as

per jamabandi for the year 2006-07 situated in Village Channia Kalan, detailed in headnote of the plaint was dismissed by the trial Court vide judgment and decree dated 02.04.2013 and the plaintiff/appellant remained unsuccessful before the first Appellate Court.

The plaintiff/appellant claimed himself to be owner in possession of suit property and has sown sugarcane and wheat crops after spending huge money on levelling, cultivation and sowing crops. It is averred that the defendants in connivance with the revenue officials have got changed *khasra girdawari* in favour of defendant No. 1 which was earlier in the name of the appellant/plaintiff.

Respondent/defendant No. 1 contested the suit raising plea that the plaintiff executed agreement to sell in favour of defendant No. 1 and he filed suit for specific performance of agreement to sell which was decreed in his favour and mutation was sanctioned. Partition was effected and suit land has fallen to share of defendant No. 1 and possession thereof was delivered by the revenue Court and defendant No. 1 transferred the suit land to defendant No. 2 who is now owner in possession of suit land.

The plaintiff relied upon copy of *khasra girdawari* Ex.P3; orders dated 23.04.2011 Ex.P4; dated 07.03.2011 Ex.P5; dated 04.02.2010 Ex.P6 and copy of statement dated 04.02.2010 Ex.P7. The documents relied upon by the plaintiff/appellant pertain to the period subsequent to institution of suit on 28.07.2009. During pendency of suit before the Civil Court raising dispute with regard to possession of suit land, the revenue authorities are not competent to make change in *khasra girdawari* , therefore, the appellant cannot derive any advantage to his contention

from change in khasra girdwari or order passed by the revenue authorities in this regard. In this context, reference can be made to judgments of this Court ***Sukhwinder Singh and another vs Bhajan Singh, 2011 (52) R.C.R. (Civil) 917*** and ***Gurnam Singh and others vs S Jagjit Singh Rosha, 1972 PLJ 211***. In this view of the matter, the appellant cannot derive any advantage to his contention from the documents relied upon by him, in order to contend that concurrent findings recorded by the Courts suffer from an error much less perversity.

No other point has been raised.

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

(Rekha Mittal)
Judge

26.10.2018
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