

Beant Singh

vs.

Atma Singh

Present: Mr. K. S. Cheema, Advocate
for the applicant/respondent.

Mr. Rajesh Narang, Advocate
for the non-applicant/appellant.

CM No.5809-C of 2018

Allowed as prayed for.

RA-RS-38-C of 2015

The review application has been filed by defendant-respondent against the judgment dated 19.05.2015.

Learned counsel for the applicant/respondent has pointed out that while recording finding in favour of the plaintiff/appellant, this Court has relied upon admission made by the defendant/respondent, which is misreading of the evidence. The findings recorded by the learned Court in paras 19 and 20 of the judgment is extracted as under:-

“19. From the evidence led by the plaintiff, appellant herein, it is amply proved that after execution of the sale deed, possession of the suit land was delivered to the plaintiff-appellant and thereafter, he continued in exclusive possession thereof. The plaintiff has emphatically stated that he had sown sugarcane crop in the suit land which fact was also admitted by Atma Singh defendant-respondent while appearing in the witness box as DW2.

20. When the defendant-respondent has admitted execution of the sale deed (Ex.P1) and also the fact of

sowing of sugarcane crop in the suit land by the plaintiff, the pleaded case of the plaintiff-appellant is duly proved that he is in exclusive possession of the suit land and he had sown sugarcane crop therein. In the partition proceedings, a revenue officer had also visited the spot. From the perusal of Annexure P-3, Naksha-A of village Kainthan, Hadbast No.131, Tehsil Dasuya, District Hoshiarpur prepared during partition proceedings, it is clearly mentioned that Beant Singh plaintiff-appellant is in cultivating possession of land measuring 3 Kanal 12 Marlas. Charanjit Singh (DW1) stated in his cross-examination that he is not a summoned witness. He had come alongwith Atma Singh. Defendant Atma Singh is his maternal uncle. As such, evidence of DW1 being nephew of defendant Atma Singh and being a highly interested witness, cannot be given any weight.”

Learned counsel for the plaintiff/appellant (non-applicant) admits that there is a misreading of the evidence.

In view thereof, the review is allowed. The judgment dated 19.05.2015, is recalled and the appeal is restored to its original number.

Let the appeal be listed for hearing on 16.07.2018.

23.04.2018
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(ANIL KSHETARPAL)
JUDGE