

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

RSA No.5202 of 2017 (O&M)

Date of decision:- 05.02.2018

Bhawani Singh and Ors.

...Appellants

Versus

Phool Singh and Ors.

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Surjeet Bhadu, Advocate,
for the appellants

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RITU BAHRI J. (Oral)

CM NO. 13942-C of 2017

For the reasons mentioned in the application same is allowed and
Lrs of Phoolwati, Appellant No. 13(e) are taken on record.

Accordingly, present application stands disposed of.

Main Case:

The present appeal has been filed by the appellant against the judgment dated 19.07.2017 passed by the Additional District Judge, Rewari and whereby suit filed by the plaintiffs (present respondents) against the respondents (herein appellants in the present appeal) has been accepted and suit of the plaintiff has been decreed.

Consequently, appellants filed the present appeal.

Arguments heard.

A perusal of the judgment passed by the Lower Appellate Court shows that parties were not in dispute to the civil Suit which was filed in 14.03.1962 and Judgment Ex. P1 dated 23.3.1963 which has been passed in favour of Rugh Nath holding him owner of ½ share against his brother Madu etc.

However, It is elaborated that the revenue entries incorrectly recorded the plaintiffs and proforma defendatns being the successors of Rugh Nath to be in possession of 15 kanal 16 marla of land as comprised in khewat no. 15 khatoni no. 27 as gair marusi. However, exclusive possession of Rugh Nath in the revenue record (jamabandi) for the year 2001 -002 Ex. P6 of land measuring 15 kanal 11 marla in Khewat NO. 11 Khatoni NO. 16 and of 11 Kanal 11 marla in khewat no. 15, khatoni no. 27 as gair marusi gives an indication of the possession of the plaintiffs being his successors. However, exclusive possession of the plaintiffs more than $\frac{1}{4}$ share of the plaintiffs cements their version that they are in possession of the aforesaid land being owners and they are further owners in possession to the extent of $\frac{1}{2}$ share, being 30 kanal 2 marla out of total land measuring 60 kanal 5 marla, as comprised in khewat no. 14. In the said khewat no. 14 khatoni no. 20, the successors of Rugh Nath are recorded to in exclusive possession of 21 Kanal 5 marla of land. But according to respondent/plaintiffs they are the owners of 30 kanal 2 marla out of 60 Kanal 5 Marla and excess shares in the name of defendantts is liable to be corrected.

The learned Lower Appellete Court has further held that since share of the plaintiffs and defendants as per the decree of 1963 in the present suit they want correction with the said decree there is no limitation Act prescribed for filing the suit and correction of the revenue records and reference made in case titled as **Gurcaran Singh and Others vs. Surjit Kaur and others 2005(3) RCR (civil) 628,** wherein it has been held that there is no limitation prescribed by article 65 of Limitation Act to challenge the mutation for establishing the rights by an heir and the only way to defeat such a suit is proof of perfected titled by adverse possession and further put

reliance upon in case titled as **Kartar Singh Vs. Jamna Devi and Others** **2016(2) The punjab Law Reporter 182,** Hon'ble Punjab and Haryana High Court has held that there is no limitation prescribed, when the suit is filed on the basis of title.

Since the suit has been rightly decreed by the Lower Appellate Court with the result that there is merit in the suit filed by the plaintiff for declaration to the effect that the revenue record is incorrect, which is liable to be corrected. Plaintiffs are granted a decree for declaration to the effect that they are entitled for the incorporation of their names and of the names of the proforma defendants in the revenue record. Their names are liable to be incorporated in the revenue record being owners in possession pertaining to land bearing Khewat no. 11 Khatoni No. 16, Rect. No. 13, Killa No. 10/2 (4-18), 11/1 (4-13), Rect. No. 40 Killa no. 22(6-0) total land 15 kanal, 11 marla and in khewat no. 14/10 to the extent of ½ share and also in khewat no. 15 khatoni no. 27 Rect no. 8, Killa No. 5(8-0) 6 min (3-11), total land 11 kanal 11 marla in the records of jamabandi for the year 2001-02 vide judgement and decree dated 23.03.1963 and 19.08.1974 and they also entitled for the correction of the wrong entries in the record of rights and the defendants have no right, title or interest over the said land. Further a decree for permanent injunction as a consequential relief is passed in favour of plaintiffs and against the defendants, whereby the latter are permanently restrained from alienating and interfering in the possession of the suit land.

Hence, No illegality, much less perversity has been pointed out in the judgments of the lower Appellate Court, warranting interference by this Court.

No substantial question of law arises for consideration in this

appeal.

Hence, appeal stands dismissed.

05.02.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No