

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

**RSA No.5265 of 2017 (O&M)
Date of Decision: 09.08.2018**

Hari Singh

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. L.S.Sidhu, Advocate,
for the appellant.

TEJINDER SINGH DHINDSA, J.

Plaintiff/appellant, Hari Singh is in second appeal before this Court, his suit for declaration and permanent injunction having been dismissed by both the Courts below.

Appellant filed a suit seeking decree of declaration to the effect that he is in peaceful possession of the suit property i.e. land measuring 26 kanals 16 marlas as tenant from Hari 2000 till the date of filing of the suit and the Khasra Girdawri entries pertaining to the suit property in the name of Punjab Conservation and Forest Department being null and void and as such require to be corrected.

Suit filed by the appellant was dismissed by the trial Court on 17.03.2016 and the appeal preferred has also met the same fate vide decision dated 10.04.2017 passed by the learned Additional District Judge, Moga.

Counsel for the appellant contends that the Courts

below have not appreciated the evidence in the correct perspectives. It is urged that the suit land is in the ownership of the Central Government and the Punjab Conservation and Forest Department (defendant No.2 in the suit) had no concern with the same. It is submitted that Khasra Girdawri entries for the period Soni 1996 to Soni 2015, Ex. P-4 reflected that chilly, paddy etc. were grown in the suit land which would itself reflect possession of the appellant as there was no question of such crops having been sown by the Punjab Forest Department. Further argued that State of Punjab had prosecuted the present appellant as also one Major Singh under Sections 32, 33 and 63 of the Indian Forest Act on the charge of having forcibly occupied forest land but the Trial Court had acquitted the accused including the appellant vide judgment dated 26.02.2015 Ex.P-7 and the same also being a pointer towards possession of the appellant over the suit land. Further argued that version of the appellant had found support from the deposition of PW-2 Jarnail Singh, PW-3 Joginder Singh and PW-4 Sandeep Singh.

Counsel for the appellant has been heard at length and the pleadings on record have been perused.

It is a case where the plaintiff/appellant claimed to be in possession of the suit land as a tenant and the case set up was that Central Government was the owner. Strangely, the Central Government/Union of India was not even arrayed as a party defendant. That apart, appellant did not adduce any evidence to substantiate him having been inducted as a tenant over the suit land by any competent authority of the Central Government. No

evidence has also come forth to prove tender of rent to any authority by the appellant so as to lend support to his version of being a tenant over the suit land. The only evidence is in the shape of the oral statements of the plaintiff/appellant’s own witnesses PW-2 Jarnail Singh, PW-3 Joginder Singh and PW-4 Sandeep Singh. The same cannot be considered to be conclusive evidence in support of the case set up by the plaintiff/appellant.

Acquittal of the appellant in a criminal prosecution having been charged with offence under the provisions of the Forest Act would not in any manner proved his possession over the suit land. To the contrary, the Courts below have duly appreciated the evidence adduced in the shape of Jamabandi for the year 2000-01 pertaining to the suit land Ex.P-1, Jamabandi for the year 2005-06, Ex.P-2 as also Ex. P-3 for the year 2010-2011, which reflect Central Government to be the owner of the land in question and Punjab State Forest Department to be in possession thereof.

In view of the above, no infirmity or perversity is found in the judgments passed by the Courts below denying to the plaintiff/appellant the decree of declaration as also permanent injunction that he was seeking qua the suit land.

There is no merit in the appeal and the same is dismissed.

09.08.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No