

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

RSA-5301-2017 (O&M)

Date of decision: August 08, 2018

Tarsem Lal

...Appellant

Versus

Gurmail Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. G.S. Toor, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of Additional District Judge (Fast Track Court), Bathinda, vide which judgment/decreed passed by the trial court has been set-aside and suit filed by plaintiff/respondent No.1 has been decreed, on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent No.1 Gurmail Singh filed a suit against appellant as well as respondents No.2 to 9, for declaration and permanent injunction, with the averments that he had purchased land measuring 14 Kanals 07 Marlas, vide two sale deeds i.e. sale deed Nos.3205 and 3206 dated 24.11.1987, situated in the revenue estate of village Dhipali, District Bathinda and mutations of the said sale deeds were also sanctioned. Defendants No.1 to 3 in connivance with Halqa Patwari, prepared false records and divided the total land measuring 51 Kanals 7 Marlas into two parts while preparing Jamabandi for the year 1990-91.

Thereafter, defendants filed partition proceedings before Assistant Collector 1st Grade, Rampura Phul (defendant No.9) only regarding Khewat No.606 for land measuring 24 Kanals 13 Marlas, out of land measuring 51 Kanals 7 Marlas. It is pleaded that defendants had no right to seek partition from half portion of the total land and the partition proceedings are illegal, null and void. On the other hand, plaintiff was entitled to get both the Khewats combined and to get the revenue records corrected. Defendants No.1, 2, 5, 6 & 8 resisted the suit. Defendant No.1/appellant in his written statement denied the averments regarding purchase of land vide aforesaid two sale deeds and pleaded that plaintiff had no right to get Khewat Nos.603 and 606 combined. Defendants No.2, 5 and 6 in their separate written statement alleged that they are owners of the land in question, vide different sale deeds dated 18.02.1988, 24.12.1993, 18.06.1991, 01.06.1995, 01.07.1997, 19.11.1996, 13.06.2001 and 20.05.1992 and that plaintiff had no right or concern with the suit property. After hearing both the parties, the trial court dismissed the suit filed by plaintiff/respondent No.1. Aggrieved, plaintiff filed appeal before the first appellate court. Vide judgment and decree dated 28.01.2016, passed by Additional District Judge (Fast Track Court), Bathinda, appeal filed by respondent No.1/plaintiff was allowed and his suit was decreed, granting him a decree of declaration to the effect that he is owner in joint possession to the extent of 288/1027 share in the suit land and defendants were also restrained from dispossessing him from the suit land and also claiming partition of the single Khewat.

I find no infirmity with the observations made by the first

appellate court. It is evident that plaintiff Gurmail Singh has fully proved two sale deeds i.e. Ex.P-1 and Ex.P-2, Jamabandi Ex.P-3 and mutations Ex.P-4 and Ex.P-5, regarding the land in question. Said land was purchased by the plaintiff/respondent No.1 from Gian Chand and Parshotam Dass respectively, who were shown as owner in possession to the extent of 1/2 share in total land measuring 51 Kanals 07 Marlas, as per Jamabandi for the year 1985-86 (Ex.P-3). Mutations of the said sale deeds were also sanctioned. It appears, defendants in collusion with the revenue officials got total land measuring 51 Kanals 7 Marlas divided into two parts while preparing Jamabandi for the year 1990-91. Only plea raised before this court is that judgment of the first appellate court is based on misappreciation of evidence as well as law. I find no substance in this plea. No other substantial question of law has been urged. The appeal is without any merit and same is hereby dismissed.

CM Nos.14177-C & 14178-C-2017:

Since the main appeal has been dismissed on merits, these application for condonation of delay do not survive and the same are also dismissed.

(RAJAN GUPTA)
JUDGE

August 08, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No