

103

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

**RSA No. 5366 of 2017(O&M)
Date of Decision: 30.08.2018**

**Mandir Shree Thakur Ji Maharaj Village Hatt Tehsil Safidon
Distt. Jind.**

.....Appellant.

Vs

Chhaju Ram (deceased thr. LRs)

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Dr. Anju Sharma, Advocate
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

The plaintiff has filed the present regular second appeal against concurrent judgments and decrees passed by both the Courts below.

Plaintiff filed a suit for possession of land measuring 304 kanals 4 marlas and also for mandatory injunction directing the defendants to pay mesne profits @ Rs.10,000/- per annum per acre from the year 1996 till the date of delivery of land in question to the plaintiff. Plaintiff claimed that he is lawful owner of the land in question since beginning and was declared as such by a Civil Court vide judgment and decree dated

11.01.1985. Land in question was ordered to be attached vide order dated 30.10.1989 by the Sub-Divisional Officer (Civil) and receiver was appointed. Thereafter, possession was delivered to the plaintiff. Both the Courts have deliberated upon the issue of ownership on the basis of material available on record. The contention of the plaintiff was taken cognizance on the basis of jamabandi for the year 2004-2005 (Ex. P1) wherein the name of plaintiff-appellant was recorded in the column of ownership as 'Mandir Shree Thakur Ji Maharaj through Manager Rajpal Chela Baba Brij Pal Chela Baba Hathi Dass'.

As per the case set up by the defendants, Manager Rajpal was removed from the post of Manager vide resolution dated 04.08.1996 passed by the Committee who had taken possession of the land on 04.08.1996 (Ex.D2). Evidently, the removal of Rajpal on 04.08.1996 has not been assailed anywhere nor any declaration has been sought by the plaintiff-appellant vis-a-vis his entitlement to the land in question. Rajpal was not shown owner of the property rather he was shown in a managerial capacity as Mahantship of Mandir Shree Thakur Ji Maharaj. Committee had taken over the land. No document of title has been produced on record by the appellant. Jamabandi for the year 2004-2005 cannot be treated to be a document of title. Jamabandi has rebuttal presumption and the removal of Rajpal vide resolution dated 04.08.1996 (Ex.D2) was the

instance vide which the entries in the jamabandi were rebutted. The appellant has not sought any declaration qua status being that of owner of the structure in question. It is a settled principle of law that the plaintiff has to stand on his own legs. Weakness of the defendant case cannot be credited to the case of plaintiff.

No evidence has been led on record to show that the title of the suit property was ever vested with the plaintiff. Appreciation of facts done by both the Courts cannot be re-appreciated in regular second appeal.

The findings recorded by the Courts below cannot be held to be the result of any misreading of evidence or suffering from any perversity. No substantial question of law is involved in the present appeal.

Appeal is, accordingly, dismissed.

Payment of requisite Court fee has already been made, therefore, *CM No.14332-C of 2017* is disposed of, accordingly.

30.08.2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No