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

**RSA No.1010 of 2019 (O&M)
Date of Decision:08.02.2019**

Rajinder KaurAppellant

Vs

Samittar KaurRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ajaivir Singh, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Defendant is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction on the basis of possessory rights based on title. Plaintiff purchased the suit land vide three sale deeds from Amar Singh. Plaintiff pleaded herself to be owner in possession of the suit property. Defendant was pleaded to be a stranger.

[3]. Earlier civil suit titled '*Jagmohan Singh vs. Amar Singh & others*' was filed which was dismissed on 28.03.2007 and the judgment and decree of the trial Court was upheld by the lower Appellate Court on 17.11.2009. In the said suit, plaintiff was arrayed as contesting defendant and Urmaljit Singh husband of

the defendant was impleaded as proforma defendant. The sale deeds executed by Amar Singh in favour of the plaintiff were challenged by way of declaration and permanent injunction was also sought. After the trial, the said sale deeds in favour of the plaintiff were held to be legal. The said judgment and decree has already attained finality.

[4]. Another civil suit No.1024 dated 18.03.2001 was filed by Manohar Singh and others against the plaintiff and others. This suit was filed in respect of suit land as well as the other land. Father-in-law of the defendant namely Gurinder Singh was impleaded as proforma defendant. This suit was dismissed on 22.02.2012 and the judgment and decree has already attained finality.

[5]. In the present suit, the revenue record viz. *khasra girdawari* and *jamabandi* indicated that the plaintiff was shown to be owner. In the column of ownership cultivation *khud kast* was mentioned. In the remarks column the reference of some mutation was shown which could not prove possession of the defendant by any stretch of imagination. The report of *Kanungo* could not be relied by the Courts below because he never came forward for cross-examination.

[6]. The appellant tried to rely upon cross-examination of

the plaintiff in the criminal case. No such consideration can be made in respect of statement, if any made in a criminal case, particularly when the same has not been proved as evidence in the present case in accordance with law.

[7]. The finding of fact recorded by both the Courts below on the basis of evidence cannot be held to be the result of misreading of evidence or suffered with any perversity. The evidence led by the plaintiff was found to be trustworthy and the same could not be impeached by the defendant by any evidence to the contrary. The revenue record has presumption of truth under Section 44 of the Punjab Land Revenue Act unless and until the same is rebutted by any cogent evidence. No evidence has come forth at the instance of the defendant rebutting the presumption of the revenue record in favour of the plaintiff.

[8]. In view of aforesaid, no question of law worth cognizance is involved in the present appeal. This appeal is found to be totally devoid of merits and the same is accordingly dismissed in *limine*.

February 08, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No