

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

RSA No. 1077 of 2019(O&M)

Date of decision: 15.2.2019

Rati Ram and othersAppellants

VERSUS

Jai Kishan (since deceased) through his LRsRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rajesh Bansal, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against judgment and decree dated 10.12.2018 passed by the Additional District Judge, Panipat whereby appeal preferred by Jai Kishan – respondent/plaintiff and cross objections preferred by the appellants/defendants were disposed of.

The appeal preferred by Jai Kishan was allowed while setting aside judgment and decree passed by the trial Court but the cross objections preferred by the appellants were dismissed. The present lis pertains to 6 marlas of land comprising khasra No.25/2 situated in the area of village Luhari, Sub Tehsil Madlauda, District Panipat. The respondent/plaintiff filed a simplicitor suit for permanent injunction restraining the appellants/defendants from interfering in peaceful possession of the plaintiff over agricultural land aforesaid. The Appellate Court, in para 14 of the judgment, has made reference to the revenue documents produced by the respondent/plaintiff i.e. jamabandis for the year 1982-83 Ex.P5, 2002-03 Ex.P1 and khasra girdawari for the period 2008 to 2011 Ex.P2 that records respondent/plaintiff to be in possession of

the suit land. The Court has further held that a person in settled possession cannot be dispossessed except in due course of law, by relying upon judgments of Hon'ble the Supreme Court **Krishna Ram Mahale (dead) by his LRs Vs. Mrs. Shobha Venkat Rao, AIR 1989 SC 2097** and **Rame Gowda (D) by LRs Vs. Mr. Varadappa Naidu (D) by LRs and another, 2004(1) RCR (Civil) 519.**

The Court has also taken into consideration the nehari girdawari starting from Rabi 2013 and the cess receipts produced by the appellants/defendants with the observation that status of the parties is to be seen on the date of filing of the suit and respondents/defendants could not produce any document showing their possession over the suit land prior to the year 2011.

Counsel for the appellants has assailed the judgment of the Appellate Court primarily on the ground that stray entries in the jamabandis produced on record cannot form the basis to record a finding that respondent/plaintiff is in possession of suit land, thus, entitle to equitable and discretionary relief of injunction.

Counsel for the appellants has not disputed the factual findings recorded by the Appellate Court in para 14 of the judgment that in the jamabandis for the year 1982-83 Ex.P5 and 2002-03 Ex.P1 and khasra girdawari for the crops 2008 to 2011 Ex.P2, the respondent/plaintiff is recorded to be in possession of suit land. Perusal of judgment of the trial Court would reveal that the appellants have not produced any jamabandi subsequent to 1982-83 in order to show that the appellants have been recorded to be in possession of the suit land in those jamabandis in order to contend that there was a stray entry in favour of the respondent/plaintiff

and the same cannot be relied upon to decide the question of possession.

The nehari girdawari produced by the appellants/defendants that came into existence subsequent to filing of the suit cannot be said to be enough to rebut the presumption of correctness attached to the entries made in the jamabandis. In this view of the matter, I do not find an error much less perversity in the judgment passed by the Appellate Court, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

FEBRUARY 15, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no