IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.470 of 2001 (O&M)
Date of decision : 04.02.2019

Bur Singh and another ...Appellants

Versus

Tarlok Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Paramjit Batta, Advocate for the appellants.

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ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are aggrieved from the refusal of the First Appellate Court to direct correction of the entry of mortgage in the revenue record.

At the outset, it must be noticed that the learned trial Court decreed the suit filed by the plaintiffs in entirety and learned First Appellate Court has also upheld the relief claimed by the plaintiffs qua declaration that they are owners of the property as specified in the head note as well as in the prayer made in the suit.

However, learned trial Court has held that the entry in the revenue record showing that the land measuring 26 kanals 4 marlas out of total property measuring 74 kanals 3 marlas to be under mortgage with the defendants, is erroneous as no evidence of the mortgage has been produced. It has also not been established how entry of mortgage came to be made.

Learned First Appellate Court has upheld that finding, however reversed the finding of the trial Court on the ground that entry in the revenue record has not been challenged within a period of three years and, therefore, the suit qua that relief is barred by time.

Learned First Appellate Court has referred to Section 45 of the Punjab Land Revenue Act, 1887 (hereinafter to be referred as "the Act of 1887") to conclude that the limitation for correction of the revenue entry is three years. Section 45 of the Act of 1887 is extracted as under:-

> "***45. Suit for declaratory decree by persons aggrieved by an entry in a record -*** *If any person considers himself aggrieved as to any right of which he is in the possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.*"

It is apparent that Section 45 of the Act of 1887 does not provide for any limitation.

In any case, the revenue entries are entered only for fiscal purposes. These entries neither confer any title nor give rise to any cause of action. Once there is no evidence with respect to the land having been mortgaged, the entry in the revenue record cannot be allowed to stand. The limitation for a suit for declaration praying for correction of the entry does not begin to run from the date a wrong entry has been made in the revenue record, unless there is some overt act which give rise to cause of action.

Keeping in view the aforesaid facts, judgment passed by the learned First Appellate Court partially dismissing the suit filed by the plaintiffs on the ground that this prayer in the suit is barred by limitation is clearly erroneous and, therefore, set aside. Accordingly, judgment of the First Appellate Court to that extent is modified.

Regular Second Appeal is allowed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

04.02.2019 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No