

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.4768 of 2011 (O&M)

Date of decision: 21.02.2019

Kuldeep Singh

..... Appellant

Versus

Harbhajan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Aman Dhir, Advocate, for
Mr. Harkesh Manuja, Advocate
for the appellant.

Mr. Ajay Jain, Advocate
for respondent No.1.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below dismissing the suit for permanent injunction filed by him and allowing the counter claim filed by defendant No.1.

The plaintiff claims that he was inducted as a tenant in the suit land by Kartar Singh, the previous owner in 1990. His entire claim is based upon the order dated 18.03.1997 passed by the Assistant Collector IInd Grade, Rania correcting Khasra Girdawari whereafter his name was incorporated in the revenue record as tenant. The defendant claim that Kartar Singh was owner in possession and vide sale deed dated 19.07.1993, he put the defendant in possession and whereafter, the defendant continued

in possession.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record.

Learned counsel for the appellant submitted that the order dated 18.03.1997 has never been challenged and hence, the order has become final and therefore, the suit filed by the plaintiff has been wrongly dismissed. This Court has considered the submission, however, finds no substance therein. Tenancy is a result of agreement between the owner or the landlord and the tenant. The plaintiff has failed to plead as to what were the terms of the lease and whether at any point of time he paid any lease money in cash or any kind either to Kartar Singh, the original owner or to subsequent vendee i.e. defendant who purchased the property in the year 1993. Still further, both the Courts have found that the order dated 18.03.1997 is an ex parte order and there was no efforts to serve the summons on defendant. An order correcting Khasra Girdawari is passed by a Tribunal of a limited jurisdiction in a summary proceedings. The plaintiff in the present case has failed to establish tenancy under Kartar Singh or continuance thereof after the sale. Merely on the basis of order correcting Khasra Girdwari, the tenancy in favour of the plaintiff-appellant is not established. In the sale deed executed in the year 1993 by Kartar Singh, it has been specifically recorded that the possession to defendant-respondent has been delivered. In absence of cogent evidence to prove that the plaintiff was inducted as a tenant and he continued as such, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

In the plaint, the plaintiff claims that he is tenant on 1/3rd share of crop. However, there is no evidence of payment of rent.

Appeal is dismissed.

21.02.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No