

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

RSA No.2933 of 2016 (O&M)

Date of decision:21.01.2019

Jai Bhagwan and others

... Appellants

Vs.

Gugan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Bhanvi Sood, Advocate for
Mr. Adiya Jain, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants have not been successful in defending the suit filed by the plaintiffs for declaration with consequential relief of permanent injunction.

The plaintiffs stated that father of the defendants, Banwari was granted 4 kanals 10 marlas of land, vide judgment and decree dated 17.11.1992 in the case titled as “Gordhan vs. Jai Bhagwan etc”. Gordhan is the father of plaintiffs no.1 to 8, whereas, Banwari, father of the defendants. Plaintiffs no.9 to 12, are the grandsons of Gordhan. They became co-sharers to the remaining land measuring 16 kanals 4 marlas including ½ share in the land measuring 2 kanals 14 marlas subject matter of the sale deed dated 5.5.1989. However, the defendants illegally obtained the mutation of land measuring 5 kanals 17 marlas out of the above total land, vide mutation dated 13.6.2005 on the basis of decree, which was set aside. The mutation

of 1 kanal 17 marlas was also obtained by the defendants which was illegal and against the judgment and decree. On perpetual requests, the defendants did not agree for correction of the mutation no.2740 to the extent of 4 kanals 10 marlas out of the total land measuring 20 kanals 14 marlas and not to alienate 1 kanal 7 marlas.

The defendants contested the suit and denied that aforementioned decree had binding effect and as well as their existence to the extent of 90/414 share.

Ms. Bhanvi Sood, learned counsel appearing on behalf of the appellant-defendants submitted mutation Ex.P14 was correctly entered in the revenue record. The suit was filed with a malafide intention and mutation aforementioned was in tandem with the judgment and decree.

I am afraid the aforementioned argument is not sustainable, for, mutation was not in consonance with the judgment and decree dated 17.11.1992. It was not in dispute that Gorrddhan, predecessor in interest of the plaintiffs vide sale deed dated 5.5.1989, purchased 10 kanals 7 marlas out of 20 kanals 14 marlas and mutation Ex.P8 was sanctioned. The judgment and decree, Ex.P3 and Ex.P4 is also not in dispute. Gordhan had also pre-empted 5 kanals 17 marlas out of the remaining land which was vide Ex.P5 and Ex.P8 also mutated in his name. The judgment and decree, Ex.P3 and Ex.P4 were affirmed in appeal as per Ex.P1 and Ex.P2.

The impugned mutation bearing No.2740, Ex.P14 should have been of 4 kanal 10 marlas and not of 5 kanals 17 marlas i.e. 1 kanal 7 marlas was excess of land got by the defendants.

The aforementioned judgments and decrees of both the Courts below, in my view ordering the correction of the mutation is totally in consonance with law and the documents placed on record. No fault can be found.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 21, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No