

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1908 of 2017 (O&M)

Date of Decision: January 14, 2019

Dalip Singh

...Appellant

Versus

Kashmir Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. O.P.Hoshiarpuri, Advocate,
for the appellant.

AMIT RAWAL, J.

The present Regular Second Appeal is against the concurrent findings of fact and law, whereby the plaintiffs have not been successful in obtaining the proprietary rights of land measuring 45 kanals 12 marlas described in the headnote of the plaint.

It was alleged that the subject matter of the land was declared surplus, which, on 12.06.1981 was allotted to the father of the plaintiffs vide Rapat No.424, whereby the possession was also delivered and since then the plaintiffs had been in possession.

Defendant No.1 opposed the suit and stated that vide order dated 05.05.1976, the Collector (Agrarian) declared the suit land as surplus, but it was set-aside by the Commissioner on 28.04.1982 and the suit land reverted to the defendants, who had been in possession thereof. Khasra girdawari was also corrected in the name of defendant No.1.

Defendant No.2 did not contest the suit.

Plaintiffs, in support of their case, examined one witness and also brought on record documents Ex.P2, Ex.PX and Ex.PY, whereas the

defendant examined four witnesses and brought on record documents Ex.D1 to Ex.D14.

Mr. O.P.Hoshiarpuri, learned counsel appearing on behalf of the appellant-plaintiff submitted that the courts below have committed illegality and perversity as Lehna Singh, father of the plaintiffs, had not paid the instalments as fixed by the Collector (Agrarian). Non-payment cannot be a ground for declining the proprietary rights and khasra girdawari reflected their possession and, therefore, there is abdication.

I have heard the learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no force and merit in the submissions, for, the order of allotment dated 07.05.1981 (Ex.P2) revealed that the suit land was allotted to Lehna Singh for a consideration of ₹4850/-, which was to be paid by way of instalment of ₹ 500/- each on completion of annual year. Plaintiffs failed to produce the complete receipts regarding the deposit of the full price and only three receipts of ₹ 500/- each have been produced on record, which show that a sum of ₹ 1,500/- was deposited. In such circumstances, the proprietary rights could not have been conferred as the order of allotment was set-aside.

The argument of the learned counsel is not able to bring the case within the realm of perversity to form a different opinion than the one arrived at. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

January 14, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No