

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2391 of 2017

Date of Decision: February 04, 2019

Nachhattar Singh & others

...Appellants

Versus

Kirpal Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. L.S.Sidhu, Advocate,
for the appellants.

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal at the instance of the appellant-defendants is directed against the judgment and decree of the Lower Appellate Court, whereby the suit of the respondent-plaintiffs dismissed by the trial Court, had been decreed.

Plaintiffs sought the declaration of ownership of the suit property on the basis of the registered sale deed dated 16.06.1975 on the premise that the vendors were none else but Bahadur Singh and some other persons, but with regard to the aforementioned sale deed, the mutation of the balance land was reflected as the sale deed was only by Bahadur Singh. By taking the benefit of the aforementioned wrong entry, the widow and children of Kesar Singh @ Kehar Singh, other co-owner, filed application for partition of 17 kanals 16 marlas and the Assistant Collector, vide order dated 08.09.1998, accepted the partition application.

The defendants opposed the suit and denied that the sale deed was effected by Bahadur Singh and supported the partition proceedings as they carry presumption of truth.

Mr. L.S.Sidhu, learned counsel appearing on behalf of the appellant-defendants submitted that the trial Court, after noticing the entire evidence on record, found that the plaintiffs miserably failed to prove their title and ownership in respect of the entire land measuring 17 kanals 16 marlas allegedly purchased from the original owners, but the Lower Appellate Court without noticing the entire evidence has abdicated in reversing the findings.

I have heard the learned counsel for the appellant-defendants, appraised the paper book and of the view that there is no force and merit in the submissions.

Concededly, the sale deed dated 16.06.1975 (Ex.P1) is in respect of the entire land measuring 17 kanals 16 marlas and sold by Bahadur Singh and other persons and not exclusively by Bahadur Singh. The defendants erroneously got the benefit of the wrong entry reflected in the mutation and jamabandi for the year 1996-97 (Ex.P4). It is in these circumstances, plaintiffs had an occasion to get the record rectified by claiming declaration on the basis of the title. It is settled law that the mutation does not confer title. The land could not have been partitioned on the basis of the sole entry in the mutation. The Lower Appellate Court, in my view, being the last Court of fact and law, has rightly gone through the facts and the evidence on record for forming a different opinion than the one arrived by the trial Court.

For the reasons mentioned above, the findings rendered by the

Lower Appellate Court cannot be said to be suffering from any illegality or perversity or involvement of any substantial question of law. Resultantly, the appeal is dismissed.

February 04, 2019
ramesh

(AMIT RAWAL)
JUDGE

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