

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**RSA No.454 of 2015 (O&M)
Date of Decision.13.05.2019**

Rajesh Kumar

...Appellant

Vs

Surjit Singh

..Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Punchhi, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.1267-C of 2015

For the reasons stated in the application, delay of 14 days
in filing of the appeal is condoned.

Application is allowed.

Main case

The appellant-plaintiff has not been successful in suit for
possession of the land measuring 2 kanals Rect. No.97, Killa No.8/2
(2-0) situated in the area of village Chak Bajida, Tehsil Jalalabad,
District Ferozepur.

It was alleged that plaintiff's father was allotted of the
land from the Government on the basis of long and settled possession,
which was transferred to the plaintiff by way of registered sale deed
but cause of action to file suit arose when defendant found to be in
encroachment/unauthorized occupation of 2 kanals of land.

Defendant opposed the suit and denied unauthorized

possession and title of plaintiff saying that it was wrongly recorded in the revenue record, as the allotment was not correct in the eyes of law.

Plaintiff examined two witnesses and brought on record Ex.P1 to P7 whereas defendant brought on record Ex.D1 and D2.

Mr. Sandeep Punchhi, learned counsel appearing on behalf of the appellant submitted that the tenor and mode of the stand taken in the written statement did not, *prima facie*, rule out denial of ownership of the plaintiff and in similar lines, admission surfaced during the cross-examination. Earlier the sale deed was with regard to Rect. No.95, Killa No.5/2, which has been corrected as Killa No.8/2 but the Courts below have non-suited the plaintiff in the absence of any proof of title, which is totally erroneous and perverse.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit. Assuming for the argument's sake that appellant-plaintiff is proved to be owner on the basis of allotment to his father and sale deed, which have not been assailed by the defendant either through separate suit or counter-claim but the fact of the matter is that in suit for possession sought on the premise of alleged unauthorized occupation at the instance of the defendant, demarcation report is *sine qua non*. Jamabandies and khasra numbers reflected the title but encroachment has not been proved on record. In other words, plaintiff miserably failed to discharge onus, thus, dismissal of the suit was inevitable.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts

below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 13, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No