

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

RSA No.2503 of 2018 (O&M)
Date of Decision: May 09, 2019

Nar Singh

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sudhir Aggarwal, Advocate
for the appellant.

JAISHREE THAKUR, J. (Oral)

1. The instant appeal has been filed by the appellant-plaintiff against the judgment and decree dated 22.12.2017 passed by the first Appellate Court, whereby the appeal filed by the respondents-defendants against the judgment and decree dated 30.07.2014 passed by the lower court has been allowed and the suit of the appellant-plaintiff has been dismissed.

2. In short, the facts of the case are, that the appellant-plaintiff herein filed a suit for mandatory injunction, by claiming himself to be owner in possession of the agricultural land, as detailed in para 1 of the plaint. It is averred that the appellant-plaintiff purchased the suit land vide registered sale deed bearing vasika No.8380 dated 11.10.1994 for a valuable sale consideration of ₹1,44,800/- from its previous owners i.e. Rohtash and others as well as from its Bhondedars i.e. Kuria son of Parbhati, Shyam Lal,

Miachand son of Dulia, who were recorded in the revenue records at that particular year i.e. 1994. The appellant-plaintiff claimed that physical and vacant possession of the suit land was delivered to him at the time of execution and registration of the sale deed. Thereafter, the appellant-plaintiff handed over a copy of the sale deed to the then Halqua Patwari for sanctioning of mutation on the basis of sale deed in his favour along with requisite fee, however, after some time, he came to know that revenue record did not reflect his name in respect of the suit land and the same stood in the name of vendors of the appellant-plaintiff. It is alleged that ultimately on 05.10.2009, the Patwari flatly refused to sanction the mutation in favour of the appellant-plaintiff. In their written statement, the respondents-defendants submitted that the appellant-plaintiff purchased some piece of land, as alleged, from various vendors, but the said vendors did not have any specific shares in the suit land and their shares in the suit land were not fixed, as the suit land is shamlat patti land. It is also averred that each and every resident of particular village have the right in the suit land, which was left for the common purposes, so the purchase of the suit land is illegal, arbitrary and against the law. It is claimed that since the appellant-plaintiff is not having any specified share in the suit land, so the mutation cannot be sanctioned without fixing the share of an individual.

3. From the pleadings of the parties, issues were framed by the lower court and thereafter, the parties led their respective evidence. After hearing the arguments of both the sides, the lower court decreed the suit of the appellant-plaintiff. Aggrieved, the respondents-defendants filed an appeal before the first Appellate Court, which came to be allowed and the

judgment and decree passed by the lower court was set aside and the suit filed by the appellant-plaintiff has been dismissed.

4. Learned counsel appearing on behalf of the appellant-plaintiff argues that the lower Appellate Court has erred in holding that the civil court has no jurisdiction in the matters of correction of revenue entries or registration of mutation. It is contended that once the lower court has decided the suit on merits after giving finding on each and every issue, the first Appellate Court has wrongly reversed the finding of the lower court on the issue of jurisdiction, without giving any finding on other issues.

5. I have heard learned counsel for the appellant-plaintiff and have also gone through the case file.

6. The first Appellate Court has recorded the finding that as per Section 158(1) of Punjab Land Revenue Act, 1887, civil court has no jurisdiction in any matter which the State Government or a revenue officer is empowered by the Act to dispose of or take cognizance of the matter in which the State Government or any revenue officer exercises any powers vested in it or him by or under the Act. Further, under Section (2)(vi), Civil Court cannot exercise jurisdiction over the matters regarding the correction of any entry in a record of rights, annual record or register of mutations. In view of the aforesaid provisions, the first Appellate Court came to hold that the relief of mandatory injunction, as sought by the appellant-plaintiff, is barred.

7. During the course of arguments, learned counsel for the appellant-plaintiff has failed to point out anything wrong in the aforesaid findings recorded by the first Appellate Court. He has also failed to make

out that as to how the civil court has jurisdiction in the instant matter.

8. In view of the above, this court finds no illegality or perversity in the findings so recorded by the first Appellate Court. As such, no question of law requiring determination arises in this regular second appeal filed by the appellant-plaintiff, which has no merit.

9. Dismissed.

May 09, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No