

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

**RSA No.3180 of 2017 (O&M)
Date of Decision.27.05.2019**

Karnail Kaur ...Appellant

Vs

Gagandeep Singh and others ...Respondents

2. RSA No.5309 of 2017

Karnail Kaur ...Appellant

Vs

Ganda Singh (deceased) through LR's and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. N.K. Manchanda, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.7858-C of 2017 in RSA No.3180 of 2017

For the reasons stated in the application, delay of 9 days
in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.14194-C of 2017 in RSA No.5309 of 2017

For the reasons stated in the application, delay of 1 day
in filing of the appeal is condoned.

Application is allowed.

C.M. No.14195-C of 2017 in RSA No.5309 of 2017

For the reasons stated in the application, delay of 28 days
in re-filing of the appeal is condoned.

Application is allowed.

Main Cases

This order of mine shall dispose of two regular second appeals bearing Nos.3180 and 5309 of 2017.

The appellant-plaintiff Karnail Kaur, widow of Bachan Singh filed suit in 2013 i.e. Civil Suit No.676 of 2013 (hereinafter called first suit) seeking injunction against the defendants, three in number, from interfering, blocking, creating any hindrance in the exclusive possession of the plaintiff over the land measuring 80 kanals with mandatory injunction against defendant No.1 to return all the blank stamped papers and recovery of ₹60,000/- on the basis of pronote dated 31.03.2002 whereas, defendant No.3, Gagandeep Singh instituted civil suit bearing No.240 of 2005 (hereinafter called second suit) claiming injunction seeking restraint against Karnail Kaur, Amandeep Singh and Manjit Singh from interfering into possession over the land measuring 32 kanals bearing khata No.158/217, Rect. No.22, Killa No.6, 7, 14 and 15.

It was asserted that Bachan Singh was in possession of land measuring 79 kanals 12 marlas. The matter of allotment from Provincial Government was pending but he was permitted to occupy the same. Bachan Singh alleged to have received some amount from defendant No.1 Ganda Singh, who obtained signatures of Bachan Singh on certain blank papers. She was power of attorney holder of her husband, who unfortunately died on 30.08.1994. After death of Bachan Singh, she borrowed money from defendant No.1, who obtained certain signatures on the blank papers. The amount had been agreed to be returned partially on receiving every produce but

when requested to deliver amount, same was refused. Defendant No.1 had been receiving the share of batai and appropriating it towards the loan. On many occasions, request was made to settle the account but of no avail. Ultimately, legal notice dated 15.1.2000 was served upon defendant No.1 directing him not to use the power of attorney, which was cancelled on 3.6.2002. It transpired that a sum of ₹1 lakh was due from defendant No.1 and in lieu thereof, he had agreed to pay ₹60,000/- but instead of paying the same, executed the pronote and receipt. Defendant No.1 by taking the advantage of power of attorney got the khasra girdawari entered in the name of his son but in appeal preferred against the same, the case was remanded back and pending consideration.

Defendants No.1 and 2 opposed the suit by filing joint written statement and denied that Bachan Singh during his life time and after his death, plaintiff ever borrowed loan. They were put into possession by virtue of an agreement to sell dated 5.5.1983. In 2001, there was dispute between the plaintiff and defendant No.1. She refused to execute the sale deed, compelling the defendant No.1 to leave possessory rights of 32 kanals of land in her favour but on relinquishment of the share, continued to be in possession of 48 kanals. A false story of using blank papers was alleged to be coined.

Defendant No.3 asserted that he had been in exclusive possession of land measuring 32 kanals which was wrongly entered in the name of Bachan Singh. The revenue authorities correct the same. He had not been successful before the higher courts. In other words, plaintiff lost right and sought injunction on the basis of

possession qua 32 kanals.

Both the parties led extensive evidence, resulting into dismissal of first suit qua injunction but second suit regarding pronote was decreed. The plaintiff filed appeal against both the judgments i.e. partial decretal of her suit and decretal of suit filed by defendant No.3, however, both appeals have been dismissed.

Mr. N.K. Manchanda, learned counsel appearing on behalf of the appellant submitted that since ownership of the land was of Provincial Government, it was only possessory rights with the appellant. Defendants have not been able to prove agreements of 1983 and 1987 as they did not come forward for cross-examination. The evidence of the plaintiff proved possession till 2001. Defendant No.3 had no right to seek claim in the property, therefore, the suit was liable to be decreed in toto.

I am afraid the aforementioned argument would not be sustainable, for, plaintiff has already lost the right regarding the subsequent entries of khasra girdawari in the revenue court. Even otherwise, ownership is of Provincial Government. The possession was not taken during the pendency of the suit as the suit was filed in 2003 whereas last khasra girdawari entry with regard to 32 kanals reflected possession in favour of defendant No.1 in 2002. The alleged story of dispossession during the pendency of the suit remained unproved.

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, both the second appeals are dismissed.

(AMIT RAWAL)
JUDGE

May 27, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No