

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

RSA No.933 of 2014 (O&M)
Date of Decision: July 02, 2019

Kuldeep Kumar and others

...Appellants

Versus

Satya Devi and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Som Nath Saini, Advocate
for the appellants-plaintiffs.

Mr. Munish Jolly, Advocate
for the respondents-defendants.

JAISHREE THAKUR, J. (Oral)

1. The instant regular second appeal has been filed against the judgment and decree dated 24.10.2013 passed by the first Appellate Court whereby, the appeal filed by the appellants-plaintiffs (henceforth called 'the appellants') against the judgment and decree dated 15.07.2013 passed by the lower court dismissing their suit, has been dismissed.

2. In short, the facts of the case are that the appellants filed a civil suit seeking declaration to the effect that the entries in the revenue record pertaining to Khasra Nos.514 and 586 situated in the revenue estate of Rajpura were wrong and liable to be corrected as per civil suit decree dated 17.12.1980 passed in Civil Suit No.219 of 13.06.1978 by Sh. T.R. Bansal, PCS, Sub Judge Second Class, Rajpura. It was averred that on the basis of

compromise effected in the aforesaid case, mutation No.6047 was sanctioned, however, inadvertently mutation in respect of Khasra Nos. 514 and 586 had been left out, which is liable to be corrected. Upon notice, respondents-defendants (henceforth called 'the respondents') appeared and contested the suit by alleging that all the legal heirs of Sh. Jagdish Rai, predecessor-in-interest of the appellants have not been impleaded as party. It was claimed that till date no land had been given to the respondents by the appellants and no area out of aforesaid khasra numbers had been left out. It was averred that the appellants had already sold more than their share and some area had been covered by the passages.

3. From the pleadings of the parties, issues were framed and parties led their respective evidence. After hearing both the sides, the lower court dismissed the suit of the appellants. Feeling aggrieved, the appellants preferred an appeal before the first Appellate court, which was also dismissed. Now, both the judgments and decrees passed by the courts below are under challenge in this appeal.

4. Learned counsel for the appellants argues that the judgments and decrees passed by the courts below are contrary to law because the appellants have not challenged the mutation, but only sought a correction in the same. It is contended that the sanctioning of mutation No.6047 is not as per the compromise Ex.P-2 as well as judgment and decree Ex.P-1.

5. Per contra, learned counsel for the respondents argues that the judgments and decrees passed by the courts below are well reasoned and no ground is made out to interfere with the same.

6. I have heard learned counsel for the parties and have gone

through the case file.

7. The lower court, while dismissing the suit of the appellants, has observed that a perusal of the order dated 26.09.1988 passed by the court of Sh. J.L. Malhotra, Assistant Collector Ist Grade, Rajpura shows that the mutation was sanctioned in the presence of both the parties as well as their counsel on 26.09.1988. Plaintiff-Kuldeep Kumar in his cross-examination has admitted that on the basis of decree dated 17.12.1980, mutation proceedings were conducted before the AC Ist Grade Rajpura wherein, he had filed objections, which were dismissed on 26.09.1988. He also admitted that he had filed an appeal against the order dated 26.09.1988, but showed his ignorance regarding the result of the said appeal. The lower court has further observed that the plaintiffs had due knowledge and notice of sanctioning of mutation No.6047 by AC Ist Grade, Rajpura on 26.09.1988, but in para no.5 of the plaint, the appellants have wrongly mentioned that they came to know regarding sanctioning of mutation no.6047 only on 16.09.2005 when they got the copy of mutation. Under these circumstances, the lower court came to the conclusion that the suit filed by the appellants on 09.12.2005 i.e. after the gap of 17 years was barred by law of limitation, because the period for challenging the mutation is 12 years. The findings recorded by the lower court have been affirmed by the first Appellant Court.

8. Learned counsel for the appellants has not been able to point out any infirmity in the well reasoned judgments of the courts below. From the admission made by plaintiff-Kuldeep Singh in his cross-examination, it is amply clear that the mutation was sanctioned in the presence of both the

parties, which was subsequently challenged in appeal by the appellants and no challenge was laid by the appellants thereafter. In such an eventuality, the argument raised by learned counsel for the appellants regarding ignorance of the result in appeal is not sustainable. The stand taken by the appellants in para 2 of the plaint that they came to know regarding sanctioning of the mutation only when they got the copy of mutation is nothing but an attempt to challenge the said mutation after the gap of 17 years whereas, the mutation proceedings were conducted by the AC Ist Grade, Rajpura in the presence of both the parties and even the decision of the AC Ist Grade, Rajpura was challenged in appeal by the appellants themselves. It is a general principle of law that law is made to protect only diligent and vigilant people. Equity aids the vigilant and not the indolent. Law will not protect people who are careless about their rights. Moreover, there should be certainty in law and matters cannot be kept in suspense indefinitely. It is, therefore, provided that courts of law cannot be approached beyond fixed period

9. In view of the above, this court finds no illegality or perversity in the concurrent findings so recorded by both the courts below. As such, no question of law requiring determination arises in this regular second appeal filed by the appellants-plaintiffs, which has no merit.

10. Dismissed.

July 02, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No