

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

**RSA No.4803 of 2017 (O&M)
Date of Decision.08.03.2019**

Dhian Singh

...Appellant

Vs

Hari Ram and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vijay Lath, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.12771-C of 2017

For the reasons stated in the application, delay of 720
days in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.12773-C of 2017

For the reasons stated in the application, delay of 3 days
in filing of the appeal is condoned.

Application is allowed.

RSA No.4803 of 2017

The appellant-plaintiff has not been successful in
claiming declaration to be in cultivating possession of land measuring
32 kanals for the last 30 years as well as for seeking correction of the
entry in the revenue record with consequential relief of permanent
injunction before the trial Court and in appeal.

The claim, aforementioned, was laid on the basis of entry
in the revenue record as well as voter and ration card. One Hari Ram
and Collector Nawanshahr were arrayed as defendants No.1 and 2.

Defendant No.1 proceeded ex parte. Defendant No.2 in the written statement stated that property was put into auction and Hari Ram was given possession.

Plaintiff examined three witnesses and brought on record Ex.P1 to P3 whereas defendant No.2 examined Hussan Lal as DW1 and tendered documents Ex.D1 and D2. State counsel also relied upon jamabandi for the year 2002-03 as Ex.D1 and certified copy of auction as Ex.D2.

Mr. Vijay Lath, learned counsel appearing on behalf of the appellant submitted that oral testimonies of the witnesses established the long and settled possession of the plaintiff. Defendant No.1 did not choose to contest the case and therefore, had not been able to belie the possession. Jamabandi Ex.D1 also reflect the same fact, though reflected ownership in favour of the State but possession in the name of Hari Singh, which was sought to be corrected. There were no auction proceedings as no receipt or any proof of possession was placed on record.

I am afraid aforementioned argument is not sustainable as no khasra girdawari to establish possession has been placed on record. PW2 witness of the plaintiff admitted that the suit property was put to auction in the year 1984 and defendant No.1 was put into possession. The present suit has been filed in 2008 and auction is of the year 1984. Plaintiff miserably failed to prove possession. In such circumstances, no question arises for correction of the entry or for injunction.

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

March 08, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No