

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

RSA-1058-1989 (O&M)

Date of Decision: 04.03.2020

MANGTU @ MATU (deceased) THROUGH LRs.Appellants

Vs

JOGI RAM (deceased) THROUGH LRs.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.S. Singh, Advocate for the appellant.

ANIL KSHETARPAL J. (Oral)

The defendant-appellant has filed the present Regular Second Appeal against the judgment and decree passed by the Learned District Judge, Rohtak, dated 15th March, 1989 resulting in decree for possession of the suit land in favour of the plaintiff and against the defendant-appellant.

Plaintiff-Jogi Ram, who is the brother of defendant No.2-appellant, filed the suit with a prayer to pass a decree for possession. It is the case of the plaintiff that in the partition, the plaintiff and defendant No.2 became owners of the suit land and defendant No. 1 in collusion with the revenue official, got entry changed in his name in the Jamabandi for the year 1979-1980 and thereafter he entered into the possession of the property one year back.

Defendant No.1 contested the suit and submitted that the plaintiff and defendant No.2 have no concern with the land and the answering defendant No.1 is in possession of the property for the last 25-30 years. His

possession is hostile and adverse to the plaintiff and therefore, he has become

owner by way of adverse possession.

Learned Trial Court dismissed the suit on the ground that the plaintiff has failed to prove that the defendant took over the possession one year back.

Learned First Appellate Court after reappreciating the evidence accepted the appeal and decreed the suit as noted above.

This Court has heard learned counsel for the appellant and with his able assistance gone through the judgments passed by the Courts below and the record.

Learned counsel for the appellant(s) has submitted that the defendant has become the owner by way of adverse possession as 12 years have elapsed before filing of the suit. He submitted that as per khasra girdwaries for the year 1972-1984 Exs. D-1 to D-4, the defendant-appellant is recorded to be in possession and therefore, he is proved to be in continuous possession of the property for period of more than 12 years.

This Court has considered the submission, however, finds no merit therein.

For proving the acquisition of title by way of adverse possession, a party has to plead and prove as to when his possession became adverse. It is also required to be asserted that his possession is adverse, open and hostile, known to the entire world. In the present case, there is neither any evidence nor pleadings to that effect. As noted above, the plaintiff and defendant No. 1 are brothers being son of Bhagwana. Still further, the entry in favour of appellant is recorded in the year 1974 whereas the present suit was filed on 7th November, 1984, therefore, even the period of 12 years had not elapsed. Still further, there is no reason recorded for change of entry in

The Khasra girdwari does not carry any presumption of truth.
Still further, in absence of cogent evidence as to how the revenue official brought this change in the revenue record, no reliance thereon can be placed.

Keeping in view the aforesaid facts, this Court does not find any reason to interfere with the detailed judgement of Ld. District Judge.

Accordingly the present Regular Second Appeal stands dismissed.

All the pending miscellaneous applications, if any, are disposed of in view of the abovesaid judgment.

(ANIL KSHETARPAL)
JUDGE

04.03.2020
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No