

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

RSA No. 3317 of 2019 (O&M)

Date of decision: 05.02.2020.

Balbir Kaur

..... Appellant.

Versus

Sukhwinder Singh @ Gogi @ Sukhjinder Singh and others Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Manvender Singh Dalal, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant/plaintiff has challenged the judgments and decrees of the Courts below to the extent that the suit of the appellant/plaintiff for permanent injunction has not been decreed for 8 marlas of land.

Learned counsel for the appellant/plaintiff contends that the suit of the appellant/plaintiff deserves to be decreed to the extent of 8 marlas as the same was a passage and the appellant/plaintiff was entitled to use the same.

Heard.

The appellant/plaintiff had filed a suit for permanent injunction restraining the respondents/defendants from interfering in his possession and dispossessing him from the peaceful and exclusive possession over the suit land measuring 32 kanals 8 marlas comprised in Khasra Nos. 3006, 3007, 3008, 3009 and 2990/1min out of Khewat No. 80, as per jamabandi for the year 2011-12, situated in the revenue estate of village Mundapind, Tehsil

Khadur Sahib, District Tarn Taran. The suit of the appellant/plaintiff was decreed by the trial Court to the extent of 32 kanals of land. However, the suit with regard to 8 marlas of land was dismissed, as it has been held by the trial Court that it is in joint ownership and possession of the appellant/plaintiff and the respondents/defendants and the same has not been partitioned.

An appeal was preferred by the appellant/plaintiff to the extent that the suit was dismissed for 8 marlas of land. The Appellate Court has dismissed the appeal by the judgment and decree dated 24.04.2019. The suit of the appellant/plaintiff has been decreed to the extent of 32 marlas, as 'no objection' was raised by the respondents/defendants qua the land measuring 32 kanals.

However, the respondents/defendants had contested the suit with regard to Khasra No. 2990/1min (0-8 marlas). The revenue record, i.e. Ex.P1 and Ex.P1/A, indicates that the land comprising the khasra number is in possession of the co-sharers jointly. The appellant/plaintiff has relied upon Ex.P2 which is change of khasra girdawari of the entire suit land measuring 32 kanals 8 marlas in his favour. However, this change in khasra girdawari on 26.05.2015 was objected by the respondents/defendants and thereafter it was corrected in the name of the respondents/defendants. The revenue record also indicates that the land comprising the disputed khasra number is jointly held by the parties and no partition has been effected till date. PW1 Gurjit Singh, Halqa Patwari had stated that the land comprised in Khasra No. 2990/1min (0-8 marlas) is jointly owned and possessed by the parties and even the 'aks shijra' (site plan) indicates that there is no passage, as claimed

by the appellant/plaintiff.

Consequently, I do not find any merit in the appeal which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

05.02.2020

Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No