

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

279

RSA-85-2005 (O&M)

Date of decision: 23.01.2020

ABHEY SINGH

... Appellant

Versus

RAMESHWAR AND ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. PR Yadav, Advocate for the appellant.
Mr. Pankaj Jain, Advocate for the respondents.

REKHA MITTAL, J. (Oral)

CM No.10462-C of 2014

Prayer in this application is for impleading legal representative(s) (in short "LRs") of Ram Pyari-respondent No.5B.

In view of averments made in the application supported by an affidavit of appellant and arguments advanced, application is allowed and person mentioned in para 2 of the application is allowed to be brought on record as LR of Ram Pyari-respondent No.5B (since deceased), subject to just exceptions, for the purpose of present lis only.

Disposed of accordingly.

Amended memo of parties is taken on record.

Main Case

Challenge in the present appeal has been directed against judgment and decree dated 24.05.2004 passed by the Additional District Judge, Gurgaon whereby appeal filed by Rameshwar plaintiff No.1/respondent No.1 herein was disposed of. A relevant extract from paras 14 and 15 of the judgment, reads as follows:-

14. Keeping in view the reasons discussed above, the lease deed dated 27.07.92 Ex.D1 is held to be invalid, illegal and not binding on the rights of the plaintiff. Similarly mutation Ex.P8 on the basis of lease deed is also held to be invalid and illegal and the revenue entries in jamabandi for the year 94-95 proved on record as Ex.D5 are also illegal invalid and liable to be corrected.

15. Resultantly, the appeal is accepted and the impugned judgment and decree of lower court are set aside qua partly dismissing the suit and the plaintiffs are held to be co-share in possession of land measuring 1 bigha 12 biswas and the suit of plaintiff is decreed to this extent

and lease deed Ex.D1 and mutation thereof is also held to be illegal null and void and inoperative against the possession of plaintiffs. Decree sheet be drawn and file be consigned.

Counsel for the parties are *ad idem* that controversy between the parties in respect of lease deed dated 27.07.1992 has already been decided by this Court vide order dated 18.08.2015. A relevant extract from para 25 therefrom is quoted thus:-

For the foregoing reasons, the trial Court finding so far as the validity of the lease deed is concerned is upheld but not the khasra numbers described therein which will remain subject to partition and in the meanwhile it is declared unexecutable on the spot without consent of co-sharers.

Counsel for the appellant and respondents have got no objection, if the report dated 02.01.2016 submitted by the Additional District Judge, Gurgaon, in pursuance of directions issued by this Court vide order dated 18.08.2015 is accepted as it is. They would further state that nothing survives for consideration with regard to possession of plaintiffs in respect of land measuring 1 bigha 12 biswas, as per decree passed by the appellate Court.

In view of the above, the appeal stands disposed of.

23.01.2020

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No