

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

104

**RSA No. 20 of 2018 (O & M)
Date of decision : 22.1.2020**

Kulwant Singh and another

.....Appellants

Vs.

Rulda Singh and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Prabhjyot Singh Chahal, Advocate, for
Mr. G.S. Nagra, Advocate, for the applicant/appellants

Rajbir Sehrawat, J. (Oral)

It is the second appeal filed by the plaintiffs/appellants challenging the concurrent findings recorded by both the Courts below, whereby the suit filed by the plaintiffs was dismissed. For convenience, the parties hereinafter are referred to as the plaintiffs and the defendants, as they were mentioned in the original suit.

Brief facts involved in the case are that the plaintiffs claimed that they had purchased the land; measuring 5 kanals 15 marlas from the original owner Smt. Ghunno, which constituted half share of the land mentioned in the plaint, vide registered sale deed dated 30.11.1964. The plaintiffs are recorded as owners in possession of the suit property to the extent of half share as per the *jamabandi* for the years 1991-92 and 1996-97. Defendants No.1 to 14 were wrongly reflected in the revenue record as owners of the suit land. Accordingly, a decree for declaration to the effect that the plaintiffs along with defendants No. 15 and 16 are the joint owners in possession to the extent of

half share in the suit property, and the consequential relief of permanent injunction restraining defendants No.1 to 14 from creating any charge or alienating the same, was also prayed. The suit was contested by the defendants by denying the allegations of the plaintiffs. It was asserted by the defendants that they have obtained the suit property in exchange and therefore, they have rightly been recorded as the owners in possession of the suit property. The claim of the plaintiffs is not maintainable.

In order to substantiate their assertions, the plaintiffs placed on record the sale deed dated 30.11.1964, *jamabandi* for the years 1991-92, 1996-97 as well as the *jamabandi* for the year 2001-02. However, the trial Court did not find the claim of the plaintiffs sustainable; on the ground that they have failed to show ownership of the suit property at the time of filing of the suit. Accordingly, the suit filed by the plaintiffs was dismissed. The plaintiffs preferred the appeal before the lower Appellate Court. However, the lower Appellate Court also did not find any perversity with the findings recorded by the trial Court. Hence, the appeal of the plaintiffs was also dismissed. Accordingly, challenging the concurrent findings, the present appeal has been filed.

While arguing, learned counsel for the plaintiffs has submitted that the plaintiffs have been duly recorded as owners in possession upto the year 1996-97 as per the *jamabandi*. The same has already been placed on record by the plaintiffs. On the other hand, the defendants, although claimed an exchange in their favour, however, they have not even placed on record any such exchange deed. Hence, the Courts below have wrongly dismissed the suit filed by the plaintiffs.

Having heard learned counsel for the appellants and having perused the file, this Court does not find any substance in the arguments of learned counsel for the appellants. So far as the title of the plaintiffs/appellants is concerned, even as per the document placed on record by the plaintiff himself; in the form of Ex.P-4, which is *jamabandi* for the year 2001-02, the plaintiffs are not shown as owners in possession; as claimed by them. Rather, it is defendants No.1 to 14, who are shown as owners in possession as per the last *jamabandi* Ex.P-4, for the year 2001-02. There is an endorsement qua the exchange as well duly entered into the revenue record. The *jamabandi* carries the presumption of truth and has been declared to be the conclusive record of rights under the Punjab Land Revenue Act, 1887. Undisputedly, the plaintiffs have never challenged the said *jamabandi* as such. Even in the present suit, the validity of the *jamabandi* Ex.P-4, as such, has not been challenged by the plaintiffs. Hence, the Courts below have not committed any illegality or perversity in not accepting the claim of the plaintiffs qua the ownership and possession over the suit property.

Otherwise also, while appearing as witness before the Court, plaintiff No.1 himself has admitted that his father had an exchange with Sulkhan Singh etc. He had also admitted that since the year 2006, the plaintiffs are not in possession of the suit property. Hence, there is absolutely nothing on record qua the possession of the plaintiffs over the suit property. The alleged exchange claimed by defendants No.1 to 14, is reflected in the revenue record; and it is admitted by the plaintiff himself; that his father had an exchange with defendants No.1 to 14. In view of this, no fault can be found with the concurrent findings recorded by the Courts below.

No other point was argued by learned counsel for the appellants.

In view of the above, finding no illegality or perversity in the concurrent findings recorded by the courts below, the present appeal is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

22.1.2020
Ashwani

Speaking/Reasoned : Yes/No
Reportable : Yes/No