

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

RSA-223-2020 (O&M)

Date of decision : 28.01.2020

Narata Singh @ Norata (since deceased) through his LRs

...Appellant(s)

Versus

Mehar Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. P.S. Bajwa, Advocate for the appellant(s).

ANIL KSHETARPAL, J.

Plaintiff-appellant has filed this appeal through his legal heirs, challenging the correctness of the concurrent judgments passed by the Courts below.

The plaintiff claims that he is in possession of the suit property for more than 51 years whereas as per the revenue record, the owner of the property is Mehar Chand son of Ram Dass. The plaintiff claims that he is cultivating the suit property without any interruption. In the year 2004, One Sakattar Singh and his wife tried to interrupt the possession of the plaintiff, forcing the plaintiff to file a suit which was decreed. Now the plaintiff claims that he has come to know that someone has impersonated as Mehar Chand and executed a General Power of Attorney dated 10.02.2011 in favour of defendant No.2. It is claimed that whereabouts of Mehar Chand are not known and the defendants are trying to grab the property. Defendant

No.2 is also said to have executed a sale deed in favour of defendant No.3 on 16.03.2011.

Defendant Nos.1 and 2 filed a joint written statement and pleaded that the plaintiff is neither owner nor in possession of the property. The judgment and decree obtained by the plaintiff is also collusive. It is claimed that the suit property is Banjar Kadim i.e. uncultivable and, therefore, the plaintiff is not justified in claiming that he is in possession for the last 51 years.

Both the Courts, as noted above, have dismissed the suit filed by the plaintiff. It may be noted here that since the plaintiff died, therefore, Harwinder Singh son of the plaintiff had, appeared in evidence. Both the Courts, on appreciation of evidence, have found that evidence of Harwinder Singh is vague and laconic. It has been noticed that when Harwinder Singh appeared as PW1 has no knowledge of the material facts of the case. He could not even disclose as to what is the khasra number of other disputed property. He admitted that Narata Singh, the original plaintiff had died on 07.08.2012 whereas his date of birth was of the year 1975. He admitted that he had never seen the revenue record of the disputed property.

The plaintiff was required to prove that the alleged General Power of Attorney executed by Mehar Chand in favour of defendant No.2- Kuldeep Singh is result of impersonation. However, no reliable evidence in this regard has been produced.

Learned counsel for the appellant(s) on 15.01.2020 sought adjournment to apprise this Court about the status of the criminal case registered against respondent Nos.2 and 3 with the allegation of

impersonation. He has disclosed that in the aforesaid criminal case, State has filed cancellation report and proceedings thereon are continuing.

The plaintiff was required to lead evidence to prove that whereabouts of Mehar Chand are not known and the alleged power of attorney is result of impersonation. However, as noticed, no reliable evidence in this regard was produced but for oral statement of Harwinder Singh.

Keeping in view the aforesaid facts, this Court does not find any good ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

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

28.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No