

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

RSA-1117-2021 (O&M)

Date of decision: 03.11.2021

Sunita

....Appellant

Versus

Prithi Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Chand Ram Olla, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Defendant no.1-appellant assails the correctness of the concurrent findings of fact arrived at by the courts below, while decreeing the suit filed by the respondent (the plaintiff) for declaration to the effect that the plaintiff is the owner in possession to the extent of 2 kanals and 3 marlas land as per sale deed no.1928 dated 18.06.2002 and the revenue entries including mutation no.1592 dated 09.11.2010 is liable to be corrected in the revenue records. It is not in dispute that the plaintiff-respondent purchased a land measuring 2 kanals and 3 marlas from the predecessor in interest of the defendant (Ramrikh s/o Fuman) vide a registered sale deed dated 18.06.2002. It has come in evidence that Ramrikh was the owner of land comprised in khasra no. 53//8/1. He sold the aforesaid property in various parcels including the disputed one to the plaintiff. After the death of Ramrikh, his L.Rs sold some part of the purchased land to various other persons. Both the courts on appreciation of the evidence have found out that Sh. Ramrikh had sold his entire property during his lifetime. Both the courts have held that as

the plaintiff (respondent herein) is an earlier purchaser of the property from the owner, therefore, his rights are superior as compared to the subsequent purchasers.

Heard the learned counsel representing the appellant and with his able assistance perused the paper book. The learned counsel representing the appellant contends that the suit filed on 30.01.2016 was barred by time, as the mutation with respect to the registered sale deed was entered in the month of September, 2010. He further contends that the plaintiff filed an application before the Assistant Collector, for correcting the mutation entry in the revenue record, which has been adjourned sine die. In the last, he contends that as the plaintiff did not pray for the grant of decree of possession, therefore, the suit is not maintainable.

It is important to note that the plaintiff has claimed to be an owner in possession of the land purchased by him. The correctness of the sale deed executed by Ramrikh, in favour of the plaintiff is not disputed. The plaintiff has only sought a declaration that he is an owner in possession of the land purchased vide a registered sale deed dated 18.06.2002 and the mutation in the revenue record which shows that the plaintiff is an owner to the extent of 1 kanal 19 marlas and 6 sarsai is wrong. In these circumstances, the suit filed by the plaintiff cannot be said to be barred by time, because the limitation will begin to run from the date of cause of action and not from the date of sale deed. Furthermore, on the objection of the defendants, the learned trial court had framed an issue no.4 which has not been pressed before both the

courts. In a particular case where, the plaintiff is an owner in possession of the property purchased, was not necessarily required to file a suit for declaration merely to challenge a wrong entry in the revenue record. Ordinarily, a mere wrong entry in the revenue record does not exclusively give rise to a cause of action.

As regards, the second argument of the learned counsel representing appellant, it may be noted that the civil court is the competent court to grant declaration, as prayed for, by the plaintiff. The Assistant Collector, First Grade can only order correction of a wrong entry in the revenue record. Hence, the application filed by the plaintiff to correct the revenue record does not affect the maintainability of the present suit.

The last argument of the learned counsel representing the appellant also does not have substance because the plaintiff has claimed to be an owner in possession. Both the courts have found that the plaintiff is an owner in possession. The plaintiff would have sought further relief of possession only if he was not in possession of the abovesaid property.

In view thereof, no ground to interfere with the concurrent finding of fact is made out.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

03.11.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE