

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

-.-

RSA No. 716 of 2020 (O&M)

Date of decision: 13.09.2021

Sukhjit Kaur

.....Appellant

Versus

Major Singh

.....Respondent

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The present regular second appeal has been preferred by the plaintiff challenging the concurrent findings recorded by the Courts below in a suit for possession filed by the plaintiff qua land measuring 1 kanal 4 marlas out of khasra Nos. 46//6/2 min (1-4), khewat No. 200/202, khatauni No. 320 (old No. 316) in lieu of 24/1222 share of land measuring 61 kanals 02 marlas, comprising in khewat/khatauni No. 202/316 to 336 (new khewat No. 200, khatauni No. 320 to 340) situated at village Lehra Dhul Kot, as per jamabandi for the year 2009-10.

The main argument raised by counsel for the appellant/plaintiff is that the plaintiff had purchased land measuring 1 kanal 4 marlas vide sale deed No. 3197 dated 28.03.2011 from Gurmail Singh and Gurtej Singh, in the above said specific khasra number. The possession of the same was also given to the plaintiff at the time of purchase of land. Not only this, the plaintiff has produced his vendor and also the immediate neighbour as a

witness before the trial Court to prove his exclusive possession over the suit land. So far as purchase of the land by the plaintiff is concerned, the same is not denied even by the defendant. However, the defendant had taken away the possession of the suit land from the plaintiff within six months before filing of the present suit. Hence, the Courts below should have restored the possession of the land in question to the plaintiff and the suit filed by the plaintiff should have been decreed as such.

After having heard the learned counsel for the appellant and having perused the case file, this Court finds that the suit land; which is stated to have been purchased by the appellant/plaintiff, is undisputedly; shown as joint land in the revenue record. Exclusive possession of any of the co-sharers is not reflected from the revenue record. In that situation, the effective and only remedy available to the appellant would have been to file a suit for partition. The factum of there being a recital in the sale deed; qua possession having been handed over to the plaintiff at the time of purchase; has rightly been taken by the Courts below as not a conclusive proof of the fact contained therein. The appellant-plaintiff has not brought on record any convincing evidence showing the tangible possession of the plaintiff over the land in question.

In view of the above, this Court does not find any illegality or perversity with the findings recorded by the Courts below.

Hence, finding no merits in the appeal, the same is dismissed *in limine*.

(Rajbir Sehrawat)
Judge

13.09.2021

Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No