

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

RSA No.2276 of 2016 (O&M)

Date of decision: 25th March, 2022

Baljeet Singh

... Appellant

Versus

Jang Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Harchand S. Batth, Advocate for the appellant.

None for respondent No.1.

Mr. A.S. Brar, Advocate for respondents No.2 and 4.

Respondent No.3 – ex parte.

FATEH DEEP SINGH, J.

Plaintiff (now appellant) earlier filed a suit for permanent injunction against Jang Singh and other defendants, in all numbering four, whereby he sought a decree against his dispossession from the land measuring 12 Kanals duly described and depicted in the head note of the plaint being in exclusive possession of the same. It is admitted stand of the plaintiff that the land, subject matter of dispute, is owned by Harijan Land Cooperative Society (in short, 'the Society') and was under agreement with him by virtue of agreement dated 30.05.1997 and feeling threatened over the acts of the defendants had come up with the suit in question.

The defendants in their stand taken in their written statement, besides taking preliminary objections that the suit was barred under Order II Rule 2 CPC, principle of res-judicata, estoppel, non-joinder and

misjoinder of necessary parties and the suit being not maintainable, submitted that the plaintiff is neither owner nor in possession of the suit property, and that the defendants are members of the Society and the land in question falls within their share and sought dismissal of the suit, besides the plea that the plaintiff is a Jat Sikh by caste and therefore a non-Scheduled Caste category for which the land has been earmarked.

The learned trial Court framed the following issues:-

1. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for in the plaint? OPP
2. Whether the suit is barred under Order 2 Rule 2 CPC as prayed? OPD
3. Whether the suit is bad for mis joinder and non joinder of necessary parties? OPD
4. Whether the suit is barred under the principles of res judicata? OPD
5. Whether the suit is not maintainable in the present form? OPD
6. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
7. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD
8. Whether the suit against dead person is not maintainable? OPD

9. Relief.

The plaintiff examined PW1 Major Singh, himself stepped into the witness box as PW2 and examined R.V. Vashist handwriting and fingerprint expert as PW3. The defendants on the other hand, examined DW1 Jarnail Singh and DW2 Chandi Ram and it is thereafter the Court of learned Addl. Civil Judge (Senior Division), Moonak vide judgment and decree dated 17.01.2014 dismissed the suit of the plaintiff.

On appeal, the Court of learned Additional District Judge, Sangrur vide impugned judgment and decree dated 01.04.2016 dismissed the appeal of the plaintiff and that is how present appeal has come about.

In view of the recent pronouncement in '**Kirodi (since deceased) through his LR vs. Ram Parkash & others**' Civil appeal No.4988 of 2019; SLP(C) No.11527 of 2019 decided on 10.05.2019, the Hon'ble Supreme Court has clearly held under Section 41 of the Punjab Courts Act, 1918 which has its application to the States of Punjab and Haryana, that there is no necessity of framing substantial question of law for disposal of an appeal.

Appreciating the submissions of learned counsel for both the sides and upon perusal of the records.

It is the golden principle of law that the plaintiff must stand on its own legs and cannot take the weaknesses of the defendants. To the specific query of the Court, learned counsel for the appellant Mr.Harchand Singh Batth, Advocate could not convince or show cause to

this Court that the land in question does not form part of the property of the Society. More so, the plaintiff admittedly is a Jat Sikh agriculturist and therefore, have no right or claim over this property when there is nothing assertive put forth by them to that effect. Since the Society has not been arraigned as a party, no effective decree can be passed over the land which vests in the Society and rather what appears to the mind of this Court, there is apparently a surreptitious endeavour to attain sinister design to seek a decree at the back of the Society. Not even a single document could be highlighted by the plaintiff side to show their ownership or possession over the property in question. Since the land in question as per the jama bandi pertaining to the year 2004-05 Ex.P2 shows one Chajju Singh to be in possession of the same and which is further corroborated from Khasra Girdawari Ex.P3, how or by what means the plaintiff claims to have come into possession and occupation of the property has not been established by any satisfactory means. Merely because an entry has been made by way of Rapat No.53 dated 14.10.2011 on the orders of the AC Grade II, such a transfer in favour of plaintiff Baljeet Singh certainly cannot be legitimized. Rather what one can make out is that the revenue officials have played hand-in-glove with the plaintiff to fabricate an entry to the disadvantage of the Society. The learned trial Court while adjudicating on the very identification of the property, in para No.13 of its judgment had rightly held it so and observed as under:-

“13. Now as mentioned above and from the order itself it is clear that the land falling in the 34//15 (8-5) was never a matter of challenge before the assistant collector 2nd grade Moonak however by referring that order the Patwari made the correction even qua the land falling in 34//15 (8-5) which was never mentioned in the order. Thus, the entry on the face of it made in the khasra girdawari exhibit P3 appears to be wrong. The plaintiff has claimed that the defendants were in the possession of the suit property and they vide agreement/mortgaged deed dated 30/5/1997 handed over the possession to him. However, there is no revenue record brought on record by the plaintiff in order to show that the possession was ever with the defendants. Rather from exhibit P3 and exhibit P4 it is found that the possession of the suit property was with Chajju Singh. There is no mention as to how Chajju Singh came in the possession of the property in question... ..”

Thus, from this all it is clear that the plaintiff has tried to misconstrue the things and by a false and frivolous entry procured in connivance with the revenue officials has tried to hoodwink the law and tried to take an undue advantage to which he is not entitled under the law. Even in the impugned findings of the learned Additional District Judge, it has been rightly concluded that the earlier suit of Baljeet Singh against respondent defendant Jang Singh stood dismissed vide judgment and decree dated 03.08.2010, copies of which have been proved as Ex.D2 and Ex.D3 and therefore, further concealment of earlier suit having been dismissed, is another distressing feature for the plaintiff.

In the light of what has been detailed and discussed above,
this court does not find any merit in the present appeal and the same
stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 25, 2022

rps

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