

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

**RSA-4831-2015 (O&M)
Decided on:-19.09.2022**

Ram Singh

....Appellant

vs.

Role Khan and others

....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Babbar Bhan, Advocate,
for the appellant.

Mr. R.A. Sheoran, Advocate,
for respondents No.1 to 3.

Respondent No.4-ex-parte.

HARKESH MANUJA J. (Oral)

The present appeal has been filed against the judgment and decree dated 03.11.2012 passed by the court of learned Additional Civil Judge (Senior Division), Loharu as well as judgment and decree dated 12.01.2015 passed by the court of learned Additional District Judge, Bhiwani, whereby, suit for possession, mandatory injunction as well as permanent injunction filed at the instance of appellant-plaintiff, has been dismissed.

2. The facts leading to the present appeal are that the appellant-plaintiff filed a suit for possession, mandatory injunction as well as for permanent injunction, claiming himself to be the owner of the suit property which is a subject matter of rectangle No.47//24/1, measuring 1 kanal 7 marlas, situated in the revenue estate of village Sudhiwas, Sub Tehsil Behal, Tehsil Loharu, District Bhiwani. It was further stated that the appellant was

forcibly dispossessed by the respondents on 02.10.2010, hence, prayed for decree for possession, mandatory injunction as well as permanent injunction.

3. On the other hand, the respondents-defendants appeared and filed their written statement claiming that being “Luhar”, the suit property was given to respondent No.1 by the respectables of the village, about 50-60 years ago and since, then they were residing over the suit property after having raised construction there upon. It was further submitted that the appellant-plaintiff being Numberdar of the village, in collusion with the revenue officials got recorded his possession in the records. The trial court vide judgment and decree dated 03.11.2012, dismissed the suit filed by the appellant-plaintiff.

4. Aggrieved against the aforesaid judgment and decree dated 03.11.2012, the appellant-plaintiff filed his first appeal, however, the same was also dismissed by the court of learned Additional District Judge, Bhiwani, vide its judgment and decree dated 12.01.2015.

5. It has been contended on behalf of learned counsel for the appellant that as per the revenue record produced by the appellant in the shape of jamabandi for the year 1992-93 as Ex.P2, his name has been recorded as co-sharer in the column of possession over the suit land and as such, his suit for possession based on ownership was required to be decreed.

6. On the other hand, it has been pointed out by learned counsel for the respondent that except jamabandi for the year 1992-93, in all other subsequent jamabandis, the appellant has been recorded as “gair marusi” in the column of possession and therefore, having no title over the suit property, his suit for possession was rightly dismissed by both the courts

below.

7. Having heard learned counsel for the parties and having gone through the records, I find no merit in the contention raised on behalf of the appellant.

8. Though, a perusal of jamabandi for the year 1992-93 shows that the appellant has been recorded as co-sharer in the column of possession, however, perusal of all other subsequent jamabandis produced on record by the appellant-plaintiff himself show that he was recorded as “gair marusi” in the column of possession. One stray entry of jamabandi for the year 1992-93, cannot help the cause of the appellant for holding him to be owner of the suit property and for seeking decree for possession.

9. Be that as it may, a perusal of cross-examination of PW-1 i.e. appellant-plaintiff himself also reflects his admission about the factum of ownership of the land in question vesting with the gram panchayat. In fact, both the courts below have recorded the gram panchayat to be owner of the suit property. The appellant being the plaintiff, seeking decree for possession based on ownership was to stand on his own legs and was required to prove his title over the suit property for the purpose of succeeding in the suit. In the absence of any documentary evidence available on record so as to record a finding in his favour regarding his ownership, I do not find any merit in the present appeal and the same is accordingly dismissed.

(HARKESH MANUJA)
JUDGE

19.09.2022
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No