

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

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(1)

RSA-3417-2018 (O&M)
Date of decision: 11.11.2022

Sher Singh since deceased through his LRsAppellant

Versus

Mewali and othersRespondents

(2)

RSA-935-2020 (O&M)
Date of decision: 11.11.2022

Sher Singh since deceased through his LRsAppellant

Versus

Mewali and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sumit Sangwan, Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

CM-9074-C-2018 in RSA-3417-2018

Prayer in the application is for impleading the legal representatives of appellant Sher Singh who has died on 11.02.2016.

For the reasons mentioned in the application, the same is allowed and the persons mentioned in para No.2 are impleaded as legal representatives of appellant Sher Singh.

Main Case

This order shall dispose of the above referred two appeals as the parties involved in both the appeals are same and the issue is identical. For the sake of convenience, facts are being extracted from RSA-3417-2018.

Suit filed by the appellant/plaintiff seeking decree of

mandatory injunction, restraining the respondents/defendants not to interfere in the use and occupation of land measuring 32K-0M Khewat No.218min/206, Khatoni No.313 as per jamabandi for the year 2001-02 which was converted in Khewat No.242, Khatoni No.326 in the jamabandi for the year 2006-07, situated in village Asawari (hereinafter referred to as 'the suit land') was dismissed and the counter claim filed by the respondents/defendants was allowed by the Trial Court vide order dated 25.09.2014. The appeals preferred by the appellant/plaintiff against the judgment and decree of the Trial Court met with the same fate.

The parties to the *lis* hereinafter shall be referred to by their original positions in the suit.

The pleaded case of the plaintiff may be noticed as thus. One Shamsheer Singh, resident of Jhoju Kalan was the owner of the suit land. The plaintiff was in cultivating possession of the suit land as Mujara Gair Marusi under said Shamsheer Singh. Thereafter, ancestors of defendant Jai Lal were allotted the suit land under the Haryana Ceiling on Land Holdings Act, 1972 (for short, 'the Act') . The plaintiff was in cultivating possession of the suit land as Mujara Gair Marusi after its allotment to Jai Lal (ancestor of the defendants) and even though after Jai Lal's death, the defendants had become owners of the suit land, however, the plaintiff continued to be in cultivating possession of the same. As the defendants were threatening to alienate the suit land, the plaintiff filed the suit in question seeking a decree of mandatory injunction to restrain the defendants from interfering with the plaintiff's use and occupation of the suit land.

The defendants in their written statement denied that the plaintiff was Mujara Gair Marusi ever since lifetime of Shamsheer Singh. It was averred that the suit land had been allotted to Jai Lal and it remained in his possession till his death. After his death, the defendants had been cultivating the suit land, however, the plaintiff had been wrongly recorded as Mujara Gair Marusi in the revenue records. The defendants also filed counter claim praying that the entries with respect to the suit land be changed in the name of the defendants after deleting the name of the plaintiff as Mujara Gair Marusi in the revenue records, and in the alternative they demanded possession of the suit land in case the possession of the defendants was not proved.

Both the Courts below on the basis of material and other evidence led, dismissed the suit of the plaintiff by recording concurrent findings. The Courts below accepted the counter claim of the defendants and held that on the allotment of the land to Jai Lal, plaintiff's tenancy stood terminated. It was also held by the Courts below that after the allotment, the plaintiff had become a stranger to the land, therefore, the defendants were entitled to regain possession of the suit land. Hence, these appeals to impugn the said findings.

Learned counsel for the plaintiff contends that the Courts below while passing the impugned judgments and decrees failed to appreciate that tenancy could be terminated either by the owner of the land or by the competent revenue authority, however, in the present case it was not terminated by either of them. Moreover, mere allotment of land to Jai Lal could not have the effect of termination of the tenancy.

Learned counsel submits that in the absence of any evidence to the contrary, the relationship of landlord-tenant stood established between the parties by virtue of entries in Jamabandis, wherein the plaintiff had been recorded as Gair Marusi.

Learned counsel still further submits that once the plaintiff's possession over the suit land as Gair Marusi stood proved by way of Jamabandis (Ex.P2 and Ex.P3), the Courts below had exceeded their jurisdiction in handing over the possession of the suit land to the defendants in view of the bar to the jurisdiction of Civil Courts to entertain and decide the dispute qua tenancy. Not only this, the Courts below had also erroneously directed correction of revenue entries which was clearly beyond the scope of their jurisdiction.

Learned counsel still further submits that the counter claim filed by the defendants was illegally allowed as in a suit for permanent injunction, counter claim seeking relief of possession was not even maintainable. Learned counsel argued that therefore, the Court had exceeded jurisdiction in handing over the possession of the suit land to the defendants. In support of his submissions, learned counsel has placed reliance upon *Shyam Lal Vs. Deepa Dass Chela Ram Chela Garib Dass: 2016(3) RCR (Civil) 812*.

I have heard learned counsel and perused the relevant material on record.

This Court does not find any merit in the submissions made by learned counsel that possession of the plaintiff was in the capacity of a tenant and as the tenant-landlord relationship stood established between the parties, Civil Court had travelled beyond its

jurisdiction in directing the possession of the suit land be given to the defendants.

It is the case of the plaintiff himself that he was Mujara Gair Marusi on the suit land under the ownership of Shamsher Singh. It is a matter of record that the suit land was allotted to Jai Lal under the Act vide Ex.DW6/A. Once the ownership of suit land was vested in Jai Lal after the allotment by Haryana Government under the Act, any tenancy at will of the plaintiff would have come to an end by operation of law. The plaintiff admittedly did not lead any evidence whatsoever to show as to how he came into possession of the suit land as Gair Marusi, once the ownership of the suit land was vested in Jai Lal.

It is pertinent to note here that after the allotment of the land to Jai Lal, on an application moved by him under Section 22 of the Act, an order Ex.D2 was passed whereby the plaintiff was directed to hand over the possession of the suit land to Jai Lal. Once, by virtue of this order, the plaintiff had been directed to vacate the suit land, there would be no question of any landlord-tenant relationship being in existence between the parties. As there existed no relationship of landlord and tenant between the parties, the Courts below were competent to adjudicate upon the matter and thus did not exceed their jurisdiction while directing the plaintiff to hand over the possession to the defendants. The case law relied upon by the learned counsel for the plaintiff does not help the case of the plaintiff as an order to vacate the suit land (Ex.D2), already stood passed against the plaintiff by the competent authority.

This Court is also unable to concur with the submissions of

the learned counsel that the Courts below had exceeded their jurisdiction in accepting the counter claim of the defendants for correction of revenue entries. It would be relevant to notice that since the rights of the parties already stood adjudicated upon by the competent revenue authorities vide order Ex.D2, the Courts below did not err in any manner as the defendants were merely held entitled to get the revenue records corrected.

On being pointedly asked, learned counsel for the plaintiff failed to bring to the notice of this Court anything on record to show that the conclusions arrived at by both the Courts below were either contrary to record or suffered from any material illegality.

As a sequel to the above, this Court thus does not find any error in the concurrent findings recorded by the Courts below. Accordingly, both the appeals being devoid of any merit are dismissed.

11.11.2022
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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