

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

RSA-2056-1996 (O&M)

Reserved on: 12.05.2023

Date of pronouncement: 18.05.2023

Jai Lal (since deceased) through LRs and others

...Appellants

Versus

Raghunath

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Satpal Bhasin, Advocate for the appellants.

Ms. Gurpreet Kaur, Advocate for
Mr. Ashish Kapoor, Advocate for the respondent.

Ms. Sumitra, Advocate for
Mr. Vikram Singh, Advocate
for the applicant/proposed respondents No.2 to 11.

H.S. MADAAN, J.

Briefly stated facts of the case are that plaintiff Raghunath had brought a suit against defendants Jia Lal and others seeking a decree for permanent injunction restraining the defendants from interfering in his possession over the suit land under the colour of wrong and illegal order of Assistant Director, Consolidation of Holdings by force. In that suit, the plaintiff claimed himself to be owner in possession of agricultural land bearing khewat No.1 min, khata No.2/4 rect. and killa No.33/15 min (0-16), 34/11 (6-2) besides being a co-sharer in the shamlat joint khewat of properties. According

to the plaintiff, this land was allotted to him and others in consolidation proceedings, however, the defendants along with some other persons in collusion with the revenue officials got the mutation sanctioned in their favour without order of the competent authority showing the suit land to have been allotted to various persons including the defendants. On the basis of such mutation, the allottees had taken the possession of the suit land, therefore, proprietors including the parties to the suit had filed a civil suit under Order 1 Rule 8 CPC titled Nihal etc. Vs. Chaman etc., challenging the validity of mutation No.1369 in civil Court which was decreed on 29.11.1972, holding the said mutation to be illegal, null and void. The appeal preferred against that judgment and decree was dismissed upto the High Court. Thereafter, the plaintiff filed a suit for possession of land comprised in killa No.33/15 min and 34/11 against defendant No.2 in the Court of Sub Judge, Sonapat which was decreed on 10.10.1986. The defendant had filed an appeal against that judgment and decree, which was however, dismissed by District Judge, Sonapat on 12.06.1989. The plaintiff had also taken possession of the land from Bhim Singh defendant and therefore has become owner of the same.

2. According to the plaintiff, the defendants had filed an application under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 before the Director of Consolidation stating that mutation No.1369 had not been

acted upon. On that application, the case was remanded to Settlement Officer to get the possession. The plaintiff had challenged that order being against law and without jurisdiction. When the defendants threatened to take forcible possession of the suit land, the plaintiff filed the suit in question.

3. The suit was contested by the defendants, contending that defendant No.2 Bhim Singh was owner of this land as per order of Consolidation Officer, Rohtak dated 11.07.1990 vide which the land had been allotted to him. The plaintiff had not filed any appeal against that order. The mutation on the basis of that order has been sanctioned on 21.09.1990. The plaintiff was not a co-sharer in the shamlat joint land. As a matter of fact, this land has been divided by the Consolidation Officer and has been allotted to the defendants, vide order dated 11.07.1990. Defending the action of consolidation authorities, the defendants prayed for dismissal of the suit.

4. Plaintiff filed replication controverting the allegations in the written statement whereas reiterating the averments in the plaint.

5. From the pleadings of the parties, following issues were framed:-

1. Whether the plaintiff is owner in possession of suit land as described in para No.1 of the plaint? OPP.
2. Whether the order of Asstt. Director Consolidation of Holdings regarding mutation No.1369 is illegal? OPP.
3. Whether the plaintiffs have no cause of action to file this suit? OPD.
4. Whether the civil court has no jurisdiction to entertain this suit? OPD.
5. Whether the suit has not been properly valued for the

purpose of court fee and jurisdiction? OPD.
6. Relief

6. The parties were afforded sufficient opportunities to lead evidence in support of their respective claims.

7. After hearing arguments, the trial Court of Sub Judge, Iind Class, Sonapat, vide judgment and decree dated 08.06.1994 by giving issue-wise findings decreed the suit of the plaintiff.

8. Feeling aggrieved by the judgment and decree passed by the trial Court, the defendants had preferred an appeal before District Judge, Sonapat, that appeal was assigned to Addl. District Judge, Sonapat, who vide judgment and decree dated 01.05.1996 had dismissed the same.

9. Still feeling dissatisfied, the defendants have knocked at the door of this Court by way of filing the present Regular Second Appeal. Defendants No.1 to 6 have since died and their LR's have been brought on record. Notice of the appeal was given to the respondents, who have put in appearance through counsel.

10. I have heard learned counsel for the parties besides going through the record.

11. Here both the Courts below by proper appraisal of evidence and correct interpretation of law have found merit in the case of the plaintiff and rejected the version set up by the defendants. It was observed that the order passed by the Director of Consolidation of Holdings is bad in the eyes of law and so are the consequent orders

passed by the consolidation authorities and the consolidation authorities had wrongly assumed the jurisdiction. Keeping in view the fact that vide judgment Ex.P7 and decree Ex.P9, the High Court had held the plaintiff to be owner in possession of the suit land and order passed by the consolidation authorities after judgment of High Court are bad in the eyes of law, the plaintiff has been found to be owner in possession of the suit land with defendants having no concern therewith. As such, they could not interfere in possession of the plaintiff over the same.

12. The judgments passed by the Courts below are based upon proper appraisal and appreciation of evidence and correct interpretation of law. I do not find any illegality or infirmity therewith and no reason is found to be there to interfere with such judgments. No substantial question of law arises in this appeal. The appeal is found to be without merit and is dismissed accordingly.

Pending, CM(s), if any, stands disposed of accordingly.

18.05.2023

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No