

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

(105)

**CM No.3349-C of 2023 in/and
RSA No.2872 of 2013 (O&M)
Date of Decision : 17.04.2023**

Devender Singh and others

...Appellants

Versus

Gram Panchayat Village Dhudianwali

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.S. Gill, Advocate for the appellants.

Mr. P.K. Ganga, Advocate
for the respondent.

Harsimran Singh Sethi J. (Oral)

CM No.3349-C of 2023

The present application has been filed for recalling the order dated 17.03.2023 by which, the present appeal was dismissed for non-prosecution.

Mr. P.K. Ganga, Advocate who is present in the Court, accepts notice on behalf of the respondents and raises no objection for the grant of the prayer as made in the present application.

Keeping in view the averments made in the application, which is duly supported by an affidavit, the same is allowed. The order dated 17.03.2023 is recalled and the appeal is restored to its original number and status.

On oral request of learned counsel for the parties, case is taken up for hearing today.

In the present Regular Second Appeal, the challenge is to the judgment and decree of the trial Court dated 30.09.2011 by which the suit filed by the respondent-plaintiff was decreed as well to the judgment and decree of the Lower Appellate Court dated 20.11.2012 by which the appeal filed by the present appellants challenging the judgment and decree of the trial Court, was dismissed.

Learned counsel for the appellants argues that in the present case, the evidence which has come on record, has not been appreciated by the Courts below in the correct perspective so as to record a finding that by the time, the land was purchased by the present appellants from the owner Mangtu Ram, there was no bus stand existing and, therefore, the description of the land as being claimed by the appellants to be under their ownership was perfectly valid and correct.

On being asked to point out the evidence on record, according to which, the land which was donated by Mangtu Ram to the Gram Panchayat for the construction of the bus stand, no bus stand was constructed upto the date when the property in question was stated to have been purchased by the appellants, learned counsel for the appellants has not been able to show any such evidence on record for the appreciation of this Court in the present Regular Second Appeal so as to prove that the findings recorded by the Courts below are perverse.

In the absence of any such evidence to support the argument, the argument of the learned counsel for the appellants that there was no bus stand existing at the site when the land was purchased in the year 1993, cannot be accepted.

Further, on being asked to point out the perversity of the judgments of the Courts below with regard to the findings recorded by the Courts below, no perversity could be pointed out by learned counsel for the appellants.

In the absence of any perversity being pointed out to this Court, no relief can be granted in the present Regular Second Appeal especially when both the Courts on the basis of the evidence and the facts on record, have concurred and recorded concurrent findings.

No other argument was raised.

Keeping in view the facts and circumstances mentioned hereinbefore, no ground is made out for interference by this Court.

Dismissed.

Keeping in view the findings recorded by the Courts below, it has already come on record that by the time, the land was purchased by the appellants, there already existed a bus stand on the said land. The Revenue Authorities are directed to ascertain as to under what circumstances, the mutation was changed in the present case and whether the same was with malafide intention so as to deprive the land/property given by Mangtu to the respondent-Gram Panchayat in connivance with someone. The department is free to initiate any proceedings, which the department deems fit in the facts and circumstances of the case including the registration of the criminal case, if need so arises in case any prima facie case is made out for initiating the proceedings.

April 17, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

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