

RSA-2981 of 2018

2023:PHHC:097589

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

RSA-2981 of 2018

Date of decision: 27.07.2023

Kaka Singh (deceased) through his legal representatives
.....Appellants

Versus

Narinder Singh and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Premjit Kalia, Advocate,
for Mr. Rajinder Sharma, Advocate,
for the appellants.

Mr. V.K. Sandhir, Advocate,
and Mr. K.P. Singh, Advocate,
for respondent No.1-caveator.

NAMIT KUMAR, J.

1. This regular second appeal is directed against the judgment and decree dated 07.09.2015 passed by Additional Civil Judge (Senior Division), Ajnala, whereby suit for declaration filed by the plaintiff-appellant(s) has been dismissed as well as against the judgment and decree dated 07.11.2017 passed by Additional District Judge, Amritsar, whereby appeal filed by the plaintiff-appellant(s) against the judgment and decree dated 07.09.2015, has been dismissed.

2. For convenience sake, reference to parties is being made as per their status in the civil suit. The facts relevant for disposal of this regular second appeal are that plaintiff Kaka Singh instituted this suit under section 45 of the Land Revenue Act for declaration to the

RSA-2981 of 2018

2023:PHHC:097589

effect that the entries coming in the column of ownership in the jamabandi in the names of Gurdit Singh and Hazara Singh sons of Inder Singh in respect of the land bearing khasra No.20//16/2(0-17), khewat khatoni No.154/404 as per jamabandi for the years 2002-2003 land situated at village Bhattewad, Tehsil Ajnala, District Amritsar are wrong, illegal, null and void and liable to be corrected in the name of plaintiff. It is the case of the plaintiff that the suit property is under the ownership and possession of the plaintiff since the consolidation of holding which took place in the village and his name was appearing in the revenue record since the consolidation of holdings. Jamabandi entries in the column Nos.4 and 5 were coming in the name of the plaintiff since 1962-63 onwards. The predecessors-in-interest of the defendants namely Gurdit Singh and Hazara Singh in connivance with the revenue authorities illegally got their names inserted in the columns No.4 and 5 of the jamabandi without any basis and without any order. No notice was ever served upon the plaintiff at the time of making said changes in the revenue record. Said change was made at the back of the plaintiff. Earlier the jamabandi entries were wrongly coming in the names of predecessors-in-interest of the defendants namely Gurdit Singh and Hazara Singh and mutation of inheritance in respect of said Gurdit Singh and Hazara Singh has been sanctioned in favour of the defendants and as such, now the names of defendants are appearing in column No.12 of the jamabandi. The said change is wrong and illegal and is liable to be corrected. The plaintiff came to know regarding said entries a month back when he obtained the certified copy of the

RSA-2981 of 2018

2023:PHHC:097589

jamabandi in respect of the suit property. The plaintiff requested the defendants number of times to admit his genuine claim and to make a statement before the revenue authorities regarding correction of the said entries in favour of the plaintiff but they refused. Hence, this suit.

3. Upon issuance of notice, defendants appeared through counsel and filed the written statement controverting all the averments made in the plaint by taking number of preliminary objections on the grounds of maintainability of the suit; locus standi of plaintiff to file the suit, there being no cause of action, estoppel, lack of jurisdiction of court to try the suit and the suit being time barred. On merits, the averments made in the plaint are denied. It is denied that the suit land is under the ownership and in possession of plaintiff since consolidation of holdings. It is denied that the name of plaintiff was appearing in the revenue record. According to the defendants they have filed the petition under section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 before Additional Director, Consolidation of Holdings, Punjab, Jalandhar against the order of Consolidation officer dated 16.11.1984. In that petition vide order dated 26.03.1987, the Additional Director, Consolidation of Holdings, Punjab, Jalandhar gave the decision that the suit land has been rightly allotted to the defendants. It is denied that the predecessors-in-interest of defendants namely Gurdit Singh and Hazara Singh in connivance with the revenue authorities illegally got their name inserted in column No.4 and 5 without any order. Mutation of inheritance has been

RSA-2981 of 2018

2023:PHHC:097589

sanctioned in the name of the defendants. The plaintiff has no right, title or interest in the suit land.

4. Replication was filed by the plaintiff wherein he controverted the averments made in the written statement and reiterated those of the plaintiff.

5. From the pleadings of the parties, the learned trial court framed the following issues :-

1. Whether the plaintiff is entitled to the relief of declaration as mentioned in the head note of the plaintiff ?OPP.
2. Whether the suit of the plaintiff is not maintainable ? OPD.
3. Whether the plaintiff has got no locus standi to file the present suit ?OPD.
4. Whether the plaintiff has got no cause of action to file the present suit ?OPD.
5. Whether the suit of the plaintiff is not maintainable in the present form ? OPD.
6. Whether the plaintiff is estopped by his own act and conduct from filing the present suit ?OPD.
7. Relief.

6. The parties led their respective evidence. The Court of first instance, after appreciating evidence on record dismissed the suit filed by the plaintiff with costs.

7. Feeling aggrieved against the said judgment and decree of the trial Court, plaintiff preferred an appeal before the lower appellate Court, which has been dismissed vide judgment and decree dated 07.11.2017.

RSA-2981 of 2018

2023:PHHC:097589

8. Learned counsel for the appellants contended that the judgments and decrees passed by both the Courts below are against law and the evidence on record. He further contended that both the Courts below failed to appreciate that plaintiff had fully proved that he had purchased the land vide sale deed dated 04.06.1982 from Didar Singh and entries in the jamabandi were incorporated in his name showing him as owner in possession of the suit land. Both the Courts below by mis-reading Ex.D-1 have dismissed the claim of the plaintiff.

9. On the other hand, learned counsel for respondent No.1-caveator contended that suit of the plaintiff has rightly been dismissed by both the Courts below as he failed to prove his possession over the suit land. Hence, the present appeal is also liable to be dismissed.

10. I have heard learned counsel for the parties and perused the record.

11. Plaintiff (now deceased through his LRs) filed a suit seeking declaration to the effect that the entries of ownership reflected in the jamabandi in the name of Gurdit Singh and Hazara Singh sons of Inder Singh with regard to the land bearing khasra No. 20//16/2 (0-17), khewat khatauni No.154/404 as per jamabandi for the years 2002-2003 situated at village Bhattewad, Tehsil Ajnala, District Amritsar are illegal, null and void, which has rightly been dismissed by both the Courts below. Exhibit D1 i.e the order of the Consolidation Officer makes it clear that plaintiff was a party to the proceedings on the basis of which entries in the name of Gurdit Singh and Hazara Singh sons of Inder Singh who were predecessors-in-interest of the respondents, were

RSA-2981 of 2018

2023:PHHC:097589

entered in the revenue records. Plaintiff never challenged the said order. During his cross examination, appellant Kaka Singh (PW1) (now deceased) admitted that the names of Gurdit Singh and Hazara Singh sons of Inder Singh were reflected in the jamabandi since 40 years and that he never filed any suit for correction of those entries of jamabandi during these 40 years. Surjit Singh (PW2) during his cross examination stated that litigation between the plaintiff-appellant and respondents was pending with the Consolidation Officer at Jalandhar. However, he failed to disclose the khasra number of the property in dispute. In the jamabandi for the year 1987-88 Ex. P5 there is an entry with red ink in the remarks column with regard to change of ownership of property in the name of Gurdit Singh vide mutation No.4047 sanctioned on the basis of the order dated 16.11.1984 Ex. D1. Both the Courts below have rightly held that once the change of ownership in favour of the predecessors-in-interest of the respondents is proved to have been made on the basis of order of Consolidation Officer Ex. D1 which has attained finality on account of failure of the appellant to challenge the same before appropriate forum, the entries in the jamabandi coming in the column of ownership in the name of predecessors-in-interest of the respondents cannot be held to a void or illegal or a result of the connivance of the revenue authorities with the respondents or their predecessors.

12. Concurrent findings have been recorded by both the Courts below that plaintiff failed to prove on record that the entries qua ownership of the suit property in the name of the defendant-

RSA-2981 of 2018

2023:PHHC:097589

respondents in the revenue record are wrongly recorded. Learned counsel for the appellants has failed to show that the findings recorded by Courts below are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

13. In view of above, no question of law, muchless substantial arises for consideration in the present appeal. No other point has been urged.

14. Dismissed.

27.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No