

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

119

2024:PHHC:007893

**RSA-1293-2021 (O&M)
Date of decision: 20.01.2024**

**MATU RAM (DECEASED) THROUGH
LRS AND ORS**

..Appellants

Versus

**RACHNA RAM (DECEASED) THROUGH
LRS AND ORS**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arihant Jain, Advocate
and Mr. Arun Jindal, Advocate
for the appellants.

Mr. Gurpreet Singh, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the plaintiffs assail the correctness of the judgment and decree passed by the First Appellate Court, which in turn reversed the judgment and decree passed by the trial Court. While filing the suit, the plaintiffs pray for grant of decree of declaration that their predecessor in interest Sh. Udai Ram son of Sh. Ghannia was owner in possession of 7 and ½ (half) share in land measuring 72 kanal and 8 marlas. It is the case of the plaintiffs that Sh. Ghannia had another son namely Sh. Hari Chand, who died issueless when he was bachelor and therefore, his share was also inherited by Sh. Udai Ram.
2. They also claim that in the jamabandi for the year 1990-91, 1995-96, there is a mutation entry in favour of the plaintiffs, however, the same was wrongly deleted in the year 2001-02 and 2005-06 and the sale deed executed by Smt. Rachna etc. (defendant No.16 and 17) in favour of defendant No.18, is wrong, illegal and void. The defendants while contesting the suit claim that the plaintiffs have no share in the '*shamlat deh*' land and

Additional Director (Consolidation) vide order dated 25.07.1990, has already decided this fact.

3. The learned trial Court partly decreed the suit on the ground that the deletion entry from the revenue record was wrong and illegal. In the first appeal, additional documents were produced. It was held that Sh. Udai Ram was never recorded as the owner of the disputed property. It was found that in the revenue record from the year 1970-71, 1983-84 and 1985-86, there was only a mutation entry in favour of Sh. Udai Ram in the cultivation column. On 25.07.1990, the *shamlat* land was partitioned among the co-owners, however, Sh. Udai Ram was not one of the co-owners, hence, he was not allotted the land. Thus, the judgment and decree passed by the trial Court was reversed.

4. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

5. The learned counsel representing the appellants while referring to the findings recorded by the trial Court submits that the First Appellate Court has erred in reversing the judgment. He submits that the entry in the revenue record could not be changed without notice.

6. This Court has considered the submissions of the learned counsel representing the appellants.

7. It is evident that the appellants are not disputing the correctness of the order passed by the Additional Director on 25.07.1990. Moreover, there is a categorical finding of the fact arrived at by the First Appellate Court after examining the revenue record to the effect that the name of Sh. Udai Ram, was only recorded in the cultivation column and not in the ownership

column. The aforesaid finding is not proved to be incorrect. The First Appellate Court has reappreciated the entire evidence and held that the trial Court fell in error in properly reading the revenue record. In this case, the plaintiffs are seeking declaration that their predecessor was owner in possession. They are required to stand on their own legs.

- 8. Hence, no ground to interfere is made out.
- 9. Dismissed accordingly.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

January 20th, 2024
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(ANIL KSHETARPAL)
JUDGE

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