

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:030621

1. RSA-2006-1992 (O&M)
Date of decision: 04.03.2024

RAJPAL SINGH (DECEASED) THROUGH LRS & ORS.

..Appellants

Versus

BHAIRU SINGH (DECEASED) THROUGH LRS & ORS.

..Respondents

2. RSA-2007-1992

RAJPAL SINGH (DECEASED) THROUGH LRS & ORS.

..Appellants

Versus

CHHATU SINGH & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raj Kumar Gupta, Advocate
for the appellants.

Mr. Manuj Chadha, Advocate
for respondent No.1 to 5 (in RSA-2007-1992)
for respondent No.8 to 12 (in RSA-2006-1992).

Mr. Sunil Panwar, Advocate
for respondent No.23, 24, 29 & 31 to 33.

ANIL KSHETARPAL, J(Oral)

CM-2306-C-2024 in RSA-2006-1992

1. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Sh. Hira Singh (appellant No.2), Sh. Harpal Singh

(appellant No.4), Sh. Attar Singh (appellant No.5), Sh. Narain Singh (appellant No.11), Sh. Hansa Singh (appellant No.13), is allowed, subject to all the just exceptions.

2. The amended memo of parties is taken on record.
3. CM stands disposed of.

Main case

4. With the consent of the learned counsel representing the parties, two connected regular second appeals filed against a common judgment passed by the First Appellate Court shall stand disposed of by this common order.

5. In these regular second appeals, the plaintiffs are assailing the correctness of the findings of fact arrived at by the First Appellate Court on reappraisal of evidence.

6. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be considered.

7. The plaintiffs filed a suit for grant of decree of permanent injunction restraining the defendants from interfering in their possession. In substance, the plaintiffs are claiming that the plaintiffs and the proforma defendants No.31 to 37 are co-sharers to the extent of 1 and ½ (half) share of 'Bael' (oxen) in agricultural land comprised in Khewat No.289, Khatoni No.431 and 461, situated in the revenue estate, Village Jhagroli. This khewat consist of 32 'Baels' (oxens). The area of one 'Bael' (oxen) is equivalent to 75 kanal and 12 marlas. It was alleged that *fard badar* No.9, dated 26.09.1979, recorded by the Patwari and attested by the Assistant Collector, IInd Grade is illegal, null and void.

8. The defendants while contesting the case alleged that there was an error in the revenue record, which has been consequently corrected by the revenue authorities after examining the entire record.

9. The trial Court had originally decided the case on 01.03.1983, however, in appeal, the matter was remanded back by the Additional District Judge vide order dated 30.08.1986. Subsequently, the trial Court decreed the suit on 26.03.1987. In appeal, the First Appellate Court has reversed the judgment and decree passed by the trial Court while deciding two connected appeals.

10. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

11. The learned counsel representing the appellants contends that the First Appellate Court has itself recorded that the order dated 24.09.1979 is a non-speaking order and it has been passed without giving opportunity to the plaintiffs. He further submits that the share of the plaintiff has been reduced in an arbitrary manner.

12. On the other hand, the learned counsel representing the respondents submits that the revenue authorities corrected the error after perusing the entire record. He further submits that the First Appellate Court after careful perusal of the revenue record from the year 1962 B.K. to 2002-03 B.K., came to conclusion that the order passed by the revenue authorities making correction in the revenue record is the correct reflection of the rights of the parties.

13. This Court has considered the submissions of the learned counsel representing the parties.

14. The revenue authorities have the enabling power to carry out necessary corrections in the revenue record by entering *fard badar*. The *fard badar* does not decide substantive rights of the parties. It is evident that the plaintiff filed the civil suit on 06.03.1980. They produced evidence to establish their rights. The First Appellate Court after careful evaluation of the evidence held that the revenue record spanning over a period of 40 years, proves that there was an error in the revenue record while reflecting the share of the plaintiffs and proforma defendant No.31 to 37, which has been corrected by the revenue authorities by entering *fard badar*.

15. It may be noted here that previously the defendants filed civil suit, however, during the pendency of the civil suit, the error in the revenue record was corrected, hence, the defendants withdrew the suit. Subsequently, the plaintiff filed the suit, which as already noticed was decreed by the trial Court, however, reversed in appeal by the First Appellate Court through the elaborate findings of the fact arrived on reappraisal of evidence. It is proved on record that the plaintiff and proforma defendant No.31 to 37 are co-sharers to the extent of 1 ‘*Bael*’ (oxen) i.e. 75 kanal and 12 marla land and not 1 and ½ (half) oxen.

16. Keeping in view the aforesaid discussion, no ground to interfere is made out.

17. Both the appeals are dismissed accordingly.

18. All the pending miscellaneous applications, if any, are also disposed of.

March 04th, 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No