IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1395 of 2002 (O&M)
Date of Order:21.11.2024

Nafe Singh (since deceased) through Lrs and others

.Appellants

Versus

Maha Singh (since deceased) through LRs

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hemant Bassi, Advocate
Mr. Pankaj Attri, Advocate,
for the appellants.

Mr. Kulvir Narwal, Advocate
Mr. Abhisar Chaudhary, Advocate
for the respondents.

***ANIL KSHETARPAL, JUDGE* (Oral)**

1. Defendant no.2 assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for grant of decree of declaration that he is the owner of ½ share of agricultural land comprised in khewat no.102, khasra no.1536/295, 296,297, 308, 309, 424 and 11-71, measuring 12 bighas, situated in village Kultana, Tehsil and District Rohtak.

2. Both the courts have found that as per the final settlement which was recorded in the year 1908, in mutation Ex.PW4/A, Sh. Bholar son of Sh. Sahiya was missing for the last 15 years and his share of land was mutated as per family settlement in favour of other heirs. Sh. Kirpa son of Sh. Jai Ram and Sh. Maha Singh son of Sh. Chatar were given equal share in ½ share, whereas the remaining ½ was given to Sh. Santokha. Subsequently,

in the year 1913, mutation no.234 was entered reflecting the plaintiff's share to be $1/4^{th}$, whereas Sh. Kirpa's share was increased to $3/4^{th}$. The aforesaid error continued in the revenue record. Sh. Maha Singh, who was minor at that time and was not present at the time of mutation sanctioned in the year 2013, filed the suit which has been decreed by both the courts below.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book as well as the digital record.

4. The learned counsel representing the appellant contends that the suit filed by the plaintiff was beyond the prescribed time because Sh. Maha Singh had knowledge of the wrong entries in the revenue record. He further submits that the plaintiff was estopped from filing the suit once he did not chose to challenge the revenue entries. In the end, he contends that Sh. Maha Singh has not impleaded Sh. Sheo Nath and others in the suit.

5. This court has considered the submissions of the learned counsel representing the appellant.

6. A wrong entry in the revenue record does not necessarily give rise to a cause of action and the limitation will not begin to run only because the incorrect entry is continuing in the revenue record. The ownership of immovable property is not dependent upon entries in the revenue record. The ownership is dependent upon substantive rights of the parties. It is evident that in the year 1913, Sh. Maha Singh or his predecessor Sh. Chatar was not present when mutation was sanctioned. Moreover, the plaintiff has proved his case by producing mutation sanctioned on 22.01.1908 to prove that Sh. Chatar and Sh. Kirpa were allocated $1/4^{th}$ share each, on the death

of Sh. Bholar.

7. With respect to the argument of the learned counsel representing the appellant in the context of estoppel, it may be noted that continuous wrong entry in the revenue record does not operate as estoppel. The estoppel can be invoked against Sh. Maha Singh or Sh. Chatar, if they had made some representation due to which the defendants had changed its position. In this case, there is no such plea.

8 The last argument of the learned counsel representing the appellant is based upon non-joinder of parties. It may be noted here that this aspect has never been pressed before the courts below. Moreover, the substantive relief has been sought against Sh. Kirpa or his children. The suit filed by the plaintiff can be dismissed only if the necessary parties have not been impleaded. The appellant has failed to prove the same.

9. Keeping in view the aforesaid facts, the regular second appeal is dismissed.

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

(ANIL KSHETARPAL)
JUDGE

November 21, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No