

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.473 of 1989 (O&M)
Date of Order:21.03.2024

Munshi

.Appellant

Versus

Baldev Singh (Deceased) through LRs

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.S.Jaswal, Advocate
for the appellant.

ANIL KSHETARPAL, J

1. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court which in turn has reversed the judgment and decree passed by the trial court.

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

3. The appellant-Munshi Ram filed a suit for grant of decree of permanent injunction restraining the defendant from interfering in his peaceful possession with respect to land measuring 2 kanals and 2 marlas comprised in khasra no.543. The appellant asserts that on the disputed land he has planted various fruit trees and plants and the defendant has no right, title or interest in the suit land. In the alternative, the plaintiff claims that he is owner by way of adverse possession.

4. The defendant while contesting the case claimed that on 06.07.1966, the plaintiff exchanged the suit land comprised in khasra no.543 with 543/2 and the mutation to this effect was entered in the revenue record which however, was not subsequently reflected in the jamabandies resulting

in confusion. It was also projected that in the year 1985, the plaintiff filed an application before the Assistant Collector, Pathankot, for demarcation and it was found that the plaintiff is not in possession of the total suit land, though he was found in possession of some part of the disputed property thereof.

5. The trial court decreed the suit, however, the First Appellate Court upon re-appreciation of evidence came to a conclusion that the plaintiff is not in possession of the suit property. The correctness of the aforesaid judgment has been challenged in this appeal.

6. The learned counsel representing the appellant submits that the plaintiff has only filed a suit for grant of permanent injunction and as per the revenue records, the plaintiff is owner in possession of the property. He submits that in such circumstances, the First Appellate Court has erred in reversing the judgment and decree passed by the trial court.

7. This court has considered the submissions of the learned counsel representing the parties.

8. In fact, the entire dispute is result of failure on the part of the revenue authorities to give effect to the mutation entry sanctioned on 06.07.1966 in new jamabandis. As per the aforesaid mutation entry, the plaintiff received land measuring 2 kanals and 2 marlas in khasra no.544 in lieu of the land comprised in khasra no.543. The aforesaid evidence has been produced and proved before the courts below. Thus, the plaintiff cannot claim to be an owner in possession of the property. Moreover, the plaintiff in alternative claims that he has perfected his title by way of adverse possession.

9. In the facts and circumstances of the case, this court does not

find it appropriate to grant declaration to the plaintiff that he has become owner by way of adverse possession. The judgment of the First Appellate Court is based upon the appreciation of evidence and it does not suffer from any substantive error or perversity.

10. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
11. Dismissed.
12. All the pending miscellaneous applications, if any, are also disposed of.

March 21, 2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO