

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

2024:PHHC:046902

RSA-325-1994 (O&M)
Date of decision: 08.04.2024

GANGA SINGH (DECEASED) THROUGH LRS. ..Appellant

Versus

WASAKHA SINGH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mohit Giri, Advocate
for Mr. Anurag Chopra, Advocate
for the appellant.

Mr. Sanjay Majithia, Sr. Advocate
with Mr. Sumit Sinha, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. This is defendant's regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing plaintiff's suit for the grant of decree of declaration that he is owner in possession of land comprised in Rectangle No.51, Khasra No.20. In the alternative, the plaintiff prays for the grant of decree of possession. In short, the plaintiff claims that he has been allotted land by the Central Government in lieu of his land left in Pakistan and was put in possession, however, the defendant has tried to interfere in his possession 20 prior to the filing of plaint.

2. The defendant while contesting the suit claimed that he has already filed the suit in which temporary injunction has been granted and the plaintiff is not owner of the property. Sh. Manjit Singh son of Sh. Sukhmandar Singh is the owner by virtue of sale deed dated 12.06.1978 along with Sh. Jasbir Singh, Sh. Ranjit Singh and defendant along with Sh. Sundar Singh and Sh. Jawala Singh are owners by virtue of sale deed dated

08.06.1967, executed by Smt. Jasbir Kaur. It was found by the Courts below

that the plaintiff withdrew the previous suit and the property in fact belongs to Rehabilitation Department, which was allotted to the plaintiff vide allotment letter Ex.P-7 and the possession was delivered to the plaintiff on 18.07.1984. In the revenue record, there was an entry in favour of the defendant showing him to be in unauthorized possession.

3. The defendant filed first appeal, which has also been dismissed by the First Appellate Court upon reappreciation of evidence. The Courts below have also found that appellant has failed to prove that there was fabrication of revenue record at the behest of the plaintiff. In the Jamabandi for the year 1965-1966, Sh. Bachna and three others were recorded as owners/mortgagers, who have created the first mortgage in favour of persons belonging to Muslim faith, who migrated to Pakistan. Sh. Bachna and others were shown to have redeemed the first mortgage vide mutation No.5255, whereas, the second mortgage again in favour of Muslims was never redeemed. Thus, the custodian succeeded to the equity of redemption created in favour of the Muslims and no redemption of the mortgage has been sought by the original owners or the transferees including the appellant.

4. The learned counsel representing the appellant though made sincere attempt, however, failed to draw the attention of the Court to any substantive error in the judgments passed by the Courts below.

5. Hence, no ground to interfere is made out.

6. Dismissed accordingly.

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

April 08th, 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No