

CR-4492-2023 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

114

CR-4492-2023 (O&M)

Date of decision: 27.05.2024

Jai Bhagwan

...Petitioner.

Versus

Smt. Kamla and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Sumit Gupta, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 19.07.2023 (Annexure P4), passed by the trial Court, vide which application under Order 7 Rule 11 CPC for rejection of plaint, was dismissed .

2. The brief facts relevant for adjudication of the present revision petition are that the respondents filed a suit for declaration with consequential relief of permanent injunction to the effect that an order dated 21.10.2022 passed by Assistant Collector IInd Grade, whereby the respondents have been proceeded against exparte and order dated 19.05.2023 passed by Assistant Collector IInd Grade, vide which khasra girdwari of land measuring 30 kanal 7 marlas has been changed in favour of the present petitioners and rapat No.358 dated 30.05.2023 was entered

CR-4492-2023 (O&M)

- 2-

regarding change of khasra girdwari, may be set aside and same may be declared null and void abinitio and not binding upon the rights of the plaintiffs, alleging that the plaintiffs and defendant No.1 and 2 alongwith proforma defendants are co-sharers inland measuring 92 kanal 17 marla comprised in khewat No.59 situated within the revenue estate of village Andhera, Tehsil and District Karnal. It has been alleged that the land amongst the co-sharers has not been partitioned by metes and bounds but all the co-sharers are in possession of specific share of land as per their ownership. The plaintiffs are in possession of land measuring 30 kanal 7 marla comprised in khewat No.59 khatoni No.61min, rect No.27 killa No.21/2(7-3), 22(8-0), rect. No.32 killa No.1(9-5), 2(4-18), 26(0-9), 3(0-12), but in khasra girdwari in the column of possession the land is shown to be Khudkast and Makbuja Malkan. Defendants No.1 and 2 tried to dispossess the plaintiff from the aforesaid land by claiming themselves to be in exclusive possession of the land on the basis of order of correction of khasra girdwari passed by the Assistant Collector IInd Grade, Karnal. It was alleged that order dated 19.05.2023 for correction of khasra girdwari was passed by defendant No.3 in connivance with defendants No.1 and 2 without serving any notice upon the plaintiffs and by playing fraud.

3. Upon notice, defendants No.1 and 2 appeared and filed application under Order 7 Rule 11 CPC for rejection of the plaint with the averments that the plaint is not maintainable as the order assailed in the civil suit is appealable under the Punjab Land Revenue Act, 1887 (for short, 'the Act') and the jurisdiction of the civil court is specifically barred under

CR-4492-2023 (O&M)

- 3-

Section 158 of the Act. Reply to the said application was filed by the plaintiffs. The trial Court dismissed the aforesaid application filed by the petitioners vide impugned order dated 19.07.2023. Hence, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

4. Learned counsel for the revision petitioner has contended that the the orders dated 21.10.2022 and 19.05.2023 challenged in the instant suit have been passed by Assistant Collector IInd Grade, Karnal. As per Section 158 of the Act jurisdiction of the civil court is barred and the plaint is liable to be rejected. He has argued that any order passed by the Revenue Officer while exercising the quasi judicial authority is always appealable under Section 13 of the Act and the plaintiff could avail the remedy of appellate jurisdiction under the Act.

5. I have heard learned counsel for the petitioner and have gone through the relevant record.

6. In the plaint of the instant suit that has been filed by the plaintiffs it has been alleged that they are owners in possession of land measuring 25 kanal 15 marla as detailed in the plaint situated at village Andhera, District Karnal. The co-sharers are in possession of specific share of land as per ownership, but the land has not been partitioned by metes and bounds between the co-sharers. The plaintiffs are in possession of land measuring 30 kanals 07 marlas as detailed in the plaint. On the basis of order of correction of khasra girdwari passed by Assistant Collector IInd Grade, Karnal, defendants No.1 and 2 tried to dispossess the plaintiffs from

CR-4492-2023 (O&M)

- 4-

the aforesaid land measuring 30 kanal 7 marla.

7. It has been specifically alleged that defendants No.1 and 2 played fraud upon the plaintiffs in connivance with defendant No.3 and defendants No.1 and 2 in order to obtain the order dated 19.05.2023 for correction of khasra girdawari forged and fabricated the signatures of Randeep Singh, Smt. Kamla, plaintiff No.3, Amandeep and Surjeet on the summons allegedly sent for 15.06.2022. The summons were shown to be served through sewadar Gurpreet and to be verified by chowkidar-Ramesh. It has been alleged that the summons do not bear the signatures of the abovesaid people. Defendants No.1 and 2 in connivance with defendant No.3 got changed the khasra girdwari pertaining to the front portion of the land in their favour without any intimation to the plaintiffs. It has also been alleged that the proper procedure for making the said correction was not followed. Munadi was not done in the village but the plaintiffs were proceeded against exparte. It has been alleged that the entire proceedings in the application for correction of khasra girdwari are illegal , null and void abinitio.

8. Thus, the instant suit has been filed by the plaintiffs seeking relief of declaration to the effect that the orders dated 21.10.2022 and 19.05.2023 passed by Assistant Collector IInd Grade, Karnal and rapt No.358 dated 30.05.2023 regarding the change of khasra girdwari are illegal, null and void.

9. It has been contended by counsel for the petitioner that the jurisdiction of civil Court is barred as per Section 158 of the Act and the

CR-4492-2023 (O&M)

- 5-

plaint is liable to be rejected.

10. In the present case, it has been alleged that the orders dated 21.10.2022 and 19.05.2023 had been obtained by fraud and signatures of the plaintiffs had been forged and fabricated to obtain said orders. So the aforesaid issues can be decided only by the civil Court. The Co-ordinate Bench of this Court in case **Sat Parkash @ Satpal Vs. The Financial Commissioner, Revenue, Punjab and others**, CWP-11505 of 2009 decided on 03.08.2009 has held that “even otherwise a suit for declaratory decree by a person aggrieved by an entry in a record is maintainable in terms of Section 45 of the Punjab Land Revenue Act, 1887. It is provided therein that if any person considers himself aggrieved as to any right of which he is in possession by an entry in a record of rights, or in an annual record, he may institute a suit for a declaration under chapter VI of the Specific Relief Act, 1877 (now Specific Relief Act, 1963). In terms of Section 34 of the Specific Relief Act, 1963 any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying or interested to deny, his title to such character or right, and the Court may in its discretion make there a declaration that he is so entitled. Therefore, the said provisions indicate the remedy of a person who may feel aggrieved by an adverse entry in the record of rights or in an annual record.”

11. The trial Court has rightly relied upon the judgment of Co-ordinate Bench of this Court in **Inder Singh Vs. Financial Commissioner, Haryana and others**, CWP-16416 of 2009 dated 28.10.2009, wherein it was held that “the proceedings for correcting khasra girdawaris are summary in

CR-4492-2023 (O&M)

- 6-

nature and in case a person is aggrieved against the revenue entries he has a remedy of filing a civil suit for declaration under Section 45 of the Act.”

12. So without having any bearing on the merits of the case, it is held that a suit for declaration in the civil Court is maintainable if the parties are aggrieved against an entry in the record of rights maintained under the Punjab Land Revenue Act and as such the present suit cannot be held to be barred by Section 158 of the Act, so as to reject the plaint.

13. There is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

14. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

27.05.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No