

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-15-2020 (O&M)
Date of Decision: 13.03.2024

AJWANT SINGH THROUGH HIS LR APPELLANTS
VS
PRITAM SINGH THROUGH HIS LR RESPONDENTS

CORAM: HON’BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Avtar Singh Bhatti, Advocate for the appellants.

Mr. Harpeet Arora, Advocate for
Ms. Harpreet Kaur Arora, Advocate for respondent-caveator.

GURBIR SINGH, J. (ORAL)

1. This regular second appeal is filed against the concurrent findings of Courts below.
2. The parties are being addressed as per the original suit.
3. Brief facts that are necessary for disposal of appeal are that the plaintiff filed a suit for declaration to the effect that he is the owner of the suit land measuring 6 K 16 M as comprised in khasra No.10//18 situated in the area of village Talwandi on the basis of exchange deed dated 10.03.1986 and for consequential relief of permanent injunction restraining the defendant from interfering into the possession of the plaintiff over the suit property. The case of plaintiff is that the defendant was owner of 5 kanals of land as comprised in khasra nos. 8//24,32//16 in the area of Nihal Singh Wala. Vide exchange deed dated 10.03.1986, both the parties exchanged their respective properties and delivered the possession of the land given in the exchange. The plaintiff irrigated the suit property with electric motor connection M-1164 installed in the name of his son Jotinder Singh. The said

exchange deed has been partly reflected in the revenue record. On the basis of the same defendant started disputing the title of the plaintiff.

4. Defendant contested the suit and filed their written statement with preliminary objections that both the parties are heirs of Bakshish Singh. The exchange deed is forged and fabricated document. The admissibility of the exchange deed has also been challenged on the ground of non-registration.

5. Learned counsel for the appellant/plaintiff has submitted that plaintiff is owner and is in possession of the suit property on the basis of exchange deed dated 10.03.1986 and from the date of exchange, the parties are in possession of their respective portions which were received by way of exchange. The exchange deed was partly entered into the revenue record and inadvertently, it was completely not reflected. The plaintiff has been reflected to be owner of 2 kanals 13 marlas of land comprised in khasra no 10//18 whereas he had received 6 kanals 16 marlas of land in exchange. There was no alteration in the exchange agreement Ex.P1. Khasra No 22//16 was wrongly written and correction thereof as 32//16 was made in the presence of all the parties. The exchange deed is already acted upon so its non-registration hardly makes any difference.

6. I have heard the submissions made by the learned counsel for the appellant.

7. The case of the plaintiff is based on exchange deed Ex.P-1. In the jamabandis as Ex.P6 and Ex.P7, mutation of 2 kanals 13 marlas of land comprised in 10//18 was sanctioned in favour of the defendant and mutation of 2 kanals 12 marlas land as comprised in Khasra No. 8//24 was sanctioned in favour of the plaintiff. As per mutation No. 6261, but the said document is

not proved on the file. The plaintiff is shown to have 1/6th share in khasra No.10//18, 6 kanals 16 marlas so the plaintiff could not give the entire land in exchange. There is statement of PW-1 Malkiat Singh, Ex-Sarpanch who is scribe and also attesting witness of exchange deed that parties are still in possession of the land as they were in possession prior to the execution of the exchange deed. Any oral exchange, which is not accompanied with the delivery of possession is no exchange in the eyes of law. When exchange deed is reduced into writing then said deed requires registration. The exchange deed Ex.P-1 is an unregistered document so cannot be considered as document whereby rights in the immovable property have been transferred. Both the Courts below have rightly held that plaintiff has failed to prove that he is owner and in possession of the suit property. Both the Courts below have correctly given concurrent findings on facts. No question of law much less substantial question of law is involved in this appeal.

8. In view of above, I do not find any illegality in the judgment and decree passed in this case. This regular second appeal is without merit and is dismissed, accordingly.

7. Pending applications, if any, shall also stand dispose of in view of the above-said order.

13.03.2024
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(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>