

**113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-5428-2015 (O&M)

Date of decision: 09.05.2024

Inderjit Singh and others

....Appellants

Versus

Ram Piari (deceased) through her LR's and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

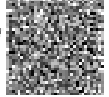
Present:- Mr. Sandeep Bansal, Advocate for the appellants

Mr.K.S.Kang, Advocate for LR's of respondent no.1

ANIL KSHETARPAL, J (Oral)

1. The plaintiffs have filed this Regular Second Appeal challenging the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for the grant of decree of declaration that the order dated 01.06.1990 passed by the Additional Consolidation Officer, which was affirmed by the Settlement Officer on 09.11.1999 and the judgment and decree dated 20.12.2001, which was affirmed in appeal by the First Appellate Court on 14.08.2002 are illegal and result of fraud. The defendants, while contesting the suit, claimed that they are owners in possession of the property since 1990. Upon appreciation of evidence, both the courts have dismissed the plaintiff's suit.

2. Learned counsel representing the parties have been heard at length and with their able assistance perused the paperbook alongwith the requisitioned record.



3. Learned counsel representing the appellants has made the following submissions:-

- i) The suit land is situated in the middle of the other land owned by the plaintiffs and the Consolidation Officer passed the order on 01.06.1990, without granting the opportunity of hearing to the plaintiffs.
- ii) Moreover, Bachat land was sought to be allotted, which was not permissible. The mutation of land has been sanctioned on the ground of some transfer deed, which is not a case of the plaintiff. He has also read over the statements of PW1 and DW1 in support of his statement.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. Learned counsel representing the appellants has overlooked an important aspect of the matter. In the previous round, the defendants filed a suit for the grant of decree of permanent injunction, against the appellants herein. In the aforesaid suit, the following issues were settled by the trial court:-

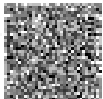
“1. Whether the plaintiff are owners in possession of the land in dispute alongwith eucalyptus trees standing therein? OPP.

2. Whether the plaintiffs are entitled to the injunction as prayed for ? OPP.

3. Whether Jaswant Singh has got locus standi to file the present suit on behalf of plaintiff No.2? OPP.

4. Whether the plaintiffs have not come to the court with clean hands? OPD.

5. Whether the suit is maintainable in the present form? OPP.



6. *Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD.*
7. *Relief.”*

6. Issue no.1 was decided in favour of the defendants (respondents herein) who were the plaintiffs in the previous suit. It was declared that the defendants are owners in possession of the land. The aforesaid judgment and decree passed by the trial court was upheld by the First Appellate Court in the appeal filed by the appellants. In the aforementioned judgment, it was declared that the respondents are owners in possession of the property. Thus, the present suit is barred by the doctrine of resjudicata.

7. Hence, dismissed.

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

09.05.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE