

2024:PHHC:004595

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**RSA No.2525 of 2018
Date of Decision: 15.01.2024**

Ved Parkash (now deceased) through his LRs

.....Appellant.

Versus

Chhailu

.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Zorawar Singh Chauhan, Advocate, appearing for
 Mr. Jitender K. Sehrawat, Advocate
 for the LRs of the appellant.

MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved by the judgment and decree passed by learned Civil Judge (Junior Division), Hisar (for short 'the trial Court') on 29.08.2016, whereby the Civil Suit filed by the appellant-plaintiff (since deceased and represented through his LRs) (here-in-after to be referred as 'the plaintiff') for seeking a decree for declaration to the effect that he had been in cultivating possession over the suit land as '*Gair Marusi*' tenant for the last 40 years and the '*Rapats*' (Diary Reports) No.47 & 48, entered on 13.10.1998 and 28.11.1998 in favour of the respondent-defendant (here-in-after to be referred as 'the defendant'), are wrong, illegal, null and void and for claiming the injunction to restrain the defendant from interfering in his possession over the suit land and from taking forcible possession thereof,

has been dismissed as well as by the judgment and decree handed down by learned Additional District Judge, Hisar (for short 'the Lower Appellate Court') on 11.05.2017, dismissing the appeal preferred by him (plaintiff) to assail the afore-mentioned judgment and decree passed by the trial Court, he (plaintiff) has preferred the instant appeal to lay challenge to the same.

2. Shorn and short of the unnecessary details, the facts, emerging from the perusal of the file and culminating in the filing of the present appeal, are that the plaintiff had filed the above-referred Civil Suit, while averring that by virtue of a family settlement, he had been continuing in the cultivating possession over the suit land as '*Gair Marusi*' tenant for the last 40 years and the defendant, who was his brother, had got the afore-said '*Rapats*' No.47 & 48 entered in his favour, in collusion with the Revenue Authorities and pursuant thereto, the entries of *Khasra Girdawris* in respect of the suit land, had been continuing in his (defendant's) favour since the *Kharif* crop of the year 1998 and on the basis thereof, the defendant started interfering in his (plaintiff's) possession over this land and he was all out to take its possession forcibly. The above-mentioned Suit had been dismissed and the appeal, as preferred by the plaintiff, has also ended in its dismissal vide the impugned judgments and decrees, as already discussed in the opening para of this judgment.

3. I have heard learned counsel appearing for the LRs of the appellant-plaintiff in the instant appeal, at the preliminary stage and have also gone through the file carefully.

4. Learned counsel for the LRs of the plaintiff contends that the *Nehri* (Canal) *Girdawris*, have been continuing in the name of the plaintiff

since the year 2006 and the same sufficiently establish his possession over the suit land and the afore-said *Rapats* No.47 & 48 had erroneously been entered in favour of the defendant and therefore, the *Khasra Girdawris*, changed on basis of these *Rapats*, are also incorrect and thus, it becomes quite explicit that the impugned judgments and the decrees are not legally sustainable and hence, the same deserve to be set-aside.

5. However, the above-raised contentions do not hold any water because as per the version of the plaintiff, the father of the parties named Harlal, had handed over the possession of the suit land to him in pursuance of a family settlement that took place about 40 years ago and the Revenue Authorities had wrongly entered *Rapats* No.47 and 48, in connivance with the defendant but it is pertinent to mention here that the plaintiff has not placed any family settlement deed on the record and even if such family settlement is presumed to be an oral one, even then, he (plaintiff) has not come forward with any fair, candid and plausible explanation as to why he remained in deep slumber for a period as long as 40 years and did not ever make any effort to get the afore-claimed family settlement incorporated in the relevant revenue record. In these circumstances, his (plaintiff's) version regarding his continuous cultivating possession over the suit land, does not stand proved/established on the record.

6 As regards the contention qua the correctness of the above-mentioned *Rapats*, the same had, admittedly, been entered in the year 1998 but the plaintiff filed the afore-referred Civil Suit in August 2015, after an inordinate delay of almost 17 years, i.e much after the lapse/expiry of the prescribed period of limitation to challenge the same.

7. So far as the entries of *Nehri Girdawris* recorded in favour of the plaintiff, are concerned, it is again worth-while to point it out here that these pertain to the period from 2006 to 2015 only whereas the plaintiff has claimed himself to be in possession over the suit land for about 40 years, preceding the filing of the above-said Suit but he did not produce the *Nehri Girdawris*, pertaining to the period prior to the year 2006, on the record and even otherwise, it is well settled that the *Nehri Girdawaris* cannot be given precedence over the *Khasra Girdawaris*. To cap it all, the plaintiff has also not come forward with any specific version as to how the entries of *Nehri Girdawris* were changed in his favour in the year 2006.

8. As a sequel to the fore-going discussion, it follows that the impugned judgments and the decrees, as passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the same are hereby upheld and the appeal in hand, being *sans* any merit, stands dismissed.

January 15, 2024

Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes