



RSA No.441 of 2019(O&M)

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

RSA-441-2019 (O&M)
Date of Decision:-**03.09.2024**

Prem Singh (since deceased) through LRs and another ... Appellants

Versus

Sub Registrar, Pundri and another ... Respondents

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CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Raj Kapoor Malik, Advocate for the appellant.

RITU TAGORE, J.

1. Being aggrieved by the concurrent findings returned against them, appellants-plaintiffs have preferred this Regular Second Appeal against the impugned judgment dated 17.07.2018, passed by learned District Judge, Kaithal, affirming and upholding the judgment dated 31.03.2018 passed by learned Civil Judge (Junior Division), Kaithal in Civil Suit RBT No.182 of 2015 titled as 'Prem Singh and another Vs. Sub-Registrar Pundri and another'.

2. For easy reference, the parties to the *lis*, hereinafter shall be referred to by their original status in the suit.

3. For proper adjudication of the matter, it is desirable to go through the facts of the case. The plaintiff instituted a suit for mandatory injunction, seeking a decree for mandatory injunction, directing the defendants to nullify the bifurcation of the original Khewat No.71 of the suit land fully mentioned in the para No.1 of the plaint.



4. Plaintiff pleaded that Revenue Authorities in collusion with defendant No.1, bifurcated the Khewat No.71 into two khewats; Khewat No.91 min. and Khewat No.92, without following the due procedure as provided under the law, rules and regulations made thereunder; while preparing Jamabandi 2005-06, just to give undue benefits to some co-shares of the land. Plaintiff served a legal notice to defendant No.2 directing the defendant No.1 to nullify the bifurcation of the original Khewat No.71, but to no effect that compelled the plaintiffs to file the present suit.

5. Upon notice, defendants appeared and filed written statement and raised preliminary objection as to the maintainability of the suit. On merits, the defendants pleaded that land in dispute has been bifurcated as per procedure and rules, after considering various sale deeds and the shares sold by the co-sharers.

6. No replication to the written statement was filed. On the contest of the pleadings, learned trial Court framed the following issues:-

1. Whether plaintiff is entitled for decree of mandatory injunction as prayed for? OPP
2. Whether the suit of the plaintiff is not maintainable in present form? OPD
3. Whether plaintiff has no locus standi and cause of action to file the present suit? OPD
4. Whether the plaintiffs are estopped from filing the present suit? OPD
5. Whether suit is hopelessly time (barred) appeared ?OPD.



6. Whether the suit is bad for non-joinder, mis-joinder ?OPD.

7. Whether the plaintiffs have suppressed the true facts from the Court ? OPD.

8. Relief

7. To substantiate their respective version, the parties led the evidence, as detailed in the judgments of the learned Courts below. The learned trial Court on appraisal of the pleadings and evidence, concluded that suit of the plaintiff is bad for non-joinder of all the co-sharers, the necessary parties. Accordingly dismissed the suit.

8. First appeal filed by the plaintiffs was also dismissed by the learned Appellate Court, holding the jurisdiction of Civil Court is barred under Section 158(1) of the Punjab Land Revenue Act, 1887.

9. Aggrieved by the dismissal of the appeal, the plaintiffs preferred this regular second appeal. Learned counsel for the appellants-plaintiffs submit that plaintiffs instituted the suit, challenging the illegal acts of the revenue officials in bifurcating the Khewat No.71 into two Khewat No.91 Min. and Khewat No.92 without following the due procedure provided in the Land Record Manual and the Rules and Regulation provided under the Punjab Land Revenue Act,1887 while preparing Jamabandi for the year 2005-2006, to give, illegal benefits to some of the co-sharers. Learned counsel submits that once the mutation has been sanctioned and the entries have been incorporated in the other revenue record i.e., Jamabandi, for cancellation of said entries civil suit is maintainable in terms of Section 45 of the Land Revenue Act, 1887. Further, all void orders or proceedings can be



challenged before the Civil Court, seeking declaration to that effect. Learned counsel submits that learned Courts below failed to appreciate the facts and the law governing the issues and prayer is made for acceptance of the appeal and to decree the suit of the plaintiffs.

10. It would be apposite to go through the relevant provisions of Section 158 of the Punjab Land Revenue Act, 1887 which reads as under:-

“158. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.-- Except as otherwise provided by this Act--

(1) A Civil Court shall not have jurisdiction in any matter which the State Government or a Revenue-officer is empowered by this Act to dispose of or take cognizance of the manner in which the State Government or any Revenue-Officer exercises any powers vested in it or him by or under this Act; and in particular--

(2) A Civil Court shall not exercise jurisdiction over any of the following matters, namely: -

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(vi) the correction of any entry in a record-of-rights, annual record or register of mutations;

11. It is cardinal rule of interpretation that where a statute provides that a particular thing should be done, it should be done in a manner prescribed and not in any other way. In this regard reliance can be placed on **‘State of Jharkhand and others Vs. Ambay Cements and another’ (2005) 1 SCC 368.**

12. In the present case, the plaintiffs are seeking decree of mandatory injunction, directing the defendants/State of Haryana, through



Sub-Registrar, Pundri District Kaithal to nullify the breaking up of original Khewat No.71 into three Khewat Nos.101, 102, 103 and restore the original Khewat, which essentially attracts the provisions of Section 158(2)(vi) of the The Punjab Land Revenue Act, 1887. The jurisdiction of Civil Court to entertain any of the matters falling under Section 158(2) of The Punjab Land Revenue Act, 1887 is barred. The learned counsel for the plaintiffs/appellants could not refute that relief sought by the plaintiffs, essentially invite the rigor of Section 158 of The Punjab Land Revenue Act, 1887, which bars the jurisdiction of Civil Court. Learned first appellate Court therefore was justified in non suiting the plaintiff on the issue of maintainability of the suit, being barred under the provisions of the Act (*ibid*).

13. In view of the discussion made above, I find no illegality in the findings recorded by learned Courts below, same are based on sound application of facts and the law. No ground for interference is made out much less involvement of any substantial question of law.

14. No other point urged.

15. Resultantly, there is no merit in the appeal and is, hereby, dismissed.

16. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

03.09.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No