

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

137

**RSA-297-2022 (O&M)
Date of decision : 25.03.2025**

Avtar Singh**..... Appellant**

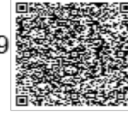
versus

Surjit Singh and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ajit Singh Sodhi, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal.
2. Plaintiff filed suit for declaration to the effect that allotment of the suit property admeasuring 18 kanalas 13 marlas of land in the name of Mohan Devi widow of Dhanpat Rai, Om Parkash son of Bihari Lal, Sohan Lal son of Brij Lal and Amrik Sikngh, is illegal, null, void and against the principles of natural justice.
3. Plaintiff claims to be in cultivating possession of the land measuring 03 kanals out of suit land for last more than 25/26 years. He claims that prior to him, his father was in cultivating possession of the land measuring 10 kanal 15 marlas. He made the land cultivable after spending huge money. Defendants got false allotment on the fictitious name of Dhanpat Rai, Mohan Devi, Om Parkash and Sohan Lal. They got sale deeds in their favour executed by Dhanpat Rai and Mohan Devi etc.



4. Suit was contested by defendant No.1 to 4 questioning the jurisdiction of the Civil Court to try the suit. Plaintiff claimed that the suit property was originally an evacuee property that vested in Central Government. The same was allotted to Dhanpat Rai and some other persons in lieu of their land left in Pakistan. The plaintiff having no right, title or interest in property has no right to file the suit.

5. On the basis of the pleadings, following issues were framed:-

- “1. Whether the plaintiff is entitled to decree of declaration as prayed for in the plaint?OPP
2. Whether the plaintiff is entitled to permanent injunction as prayed for?OPP
3. Whether the suit of the plaintiff is not maintainable in the present form?OPD.
4. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD.
5. Whether the plaintiff has not come to the court with clean hands? OPD.
6. Whether the suit is bad for non joinder of necessary parties? OPD.
7. Whether the Civil court has no jurisdiction to try this suit? OPD.
8. Relief.”

6. Court of the first instance while deciding issue No.1 and 2 held that admittedly the land belongs to Central Government. Plaintiff having not been able to prove the allotment, has no right, title or interest in the suit property.

7. The aforesaid findings stand affirmed by the Lower Appellate Court holding that the land was allotted to Dhanpat Rai in lieu of his land left in Pakistan at the time of partition. After his death, his inheritance was decided by mutation No.1712 and additional



allotment of order No.F-2/1/1 regarding the land measuring 34 kanal 07 marlas was passed on 09.02.1982. Plaintiff having failed to establish his relationship with the land, is not entitled to seek decree of declaration.

8. Counsel for the appellant-plaintiff while assailing the impugned judgment and decree passed by the Courts below submits that the allotment has been made in favour of fictitious persons which never existed. On being specifically asked to demonstrate relationship of the plaintiff with suit property, counsel for he plaintiff admits that there is no document on record to show that the plaintiff is entitled to allotment of land under the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

9. In the considered opinion of this Court, the land admittedly vested in Central Government. It is not disputed by the counsel for the plaintiff that the defendants have proved on record allotment in favour of Dhanpat Rai etc. by producing documentary evidence. There being no right vested in the plaintiff to challenge the same, the plaintiff has no right to maintain the present suit. There is no document on record to prove title or possession of the plaintiff over the suit property.

10. In view of above, finding no merits in the present appeal, the same is ordered to be dismissed.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

25.03.2025

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Whether speaking/reasoned :

Whether Reportable :

(PANKAJ JAIN)

JUDGE

Yes

No