



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1950-1998 (O&M)

Reserved on: 15.07.2025

Pronounced on: 16.07.2025

KURDA RAM

. . . . APPELLANT

Vs.

JUMLA MUSTARKA MALKAN

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ravi Sodhi, Advocate, for the appellant.
None for the respondents.

DEEPAK GUPTA, J.

Plaintiff of the case is before this Court in the present Regular Second Appeal against the concurrent findings of the Courts below, inasmuch as suit for declaration filed by him was dismissed by the trial Court on 06.09.1995 and the appeal filed by him was dismissed by the First Appellate Court on 10.12.1997, thus affirming the findings of the trial Court.

2. As per the case of the plaintiff, land measuring 175 kanal 10 marla is recorded to be owned by Jumla Mustarka Malkan in jamabandi for the year 1988-89 and that plaintiff is in possession to the extent of 35 kanal 18 marla (*suit land*) as a co-sharer. There are more than 200 co-sharers in the revenue estate of village Kumaria, but the suit land measuring 35 kanal 18 marla is in his possession, being equal to his share. Plaintiff claimed that during consolidation proceedings, compulsory cut was imposed on the then landowners to have land for common purposes and that after exhausting the land for common purposes, 175 kanal 10 marla of land was left as Bachat Khata without utilization and so the same is owned by co-sharers Jumla Mustarka Malkan as per their share in the Khewat. Plaintiff further claimed that he is in open, continuous and uninterrupted possession of the suit land measuring 35 kanal 18 marla and

so has become owner thereof by way of adverse possession. He sought declaration that entries in favour of Jumla Mustarka Malkan regarding suit land are wrong and so, liable to be corrected in his favour.

3. Defendants-respondents herein did not contest the suit and were proceeded *ex parte*.

4. After taking *ex parte* evidence, learned trial Court considered the matter and dismissed the suit on 06.09.1995 and the Appellate Court affirmed the findings as noted earlier.

5. Assailing the aforesaid findings, it is contended by learned counsel that possession of the appellant-plaintiff on the suit property is recorded since long, which in itself is an indicator that the khewat of 175 kanal 10 marla must have been partitioned amongst the co-shares and as such, plaintiff is liable to be recorded as exclusive owner in possession of the suit land.

6. This Court does not find merit in the aforesaid contention of the petitioner.

7. As noted by the Appellate Court, plaintiff on one hand pleaded to be in possession of the suit property as a co-sharer of Jumla Mustarka Malkan; and on the other hand, he pleaded to have become owner of the same by way of adverse possession. Neither plaintiff nor any of his witness deposed any ingredient to prove adverse possession.

8. Coming to the plea of plaintiff having become owner of the suit land, though in the revenue record Ex.P1 to P9, plaintiff is shown to be in possession, but it is Jumla Mustarka Malkan, which is recorded to be owner of the suit property. Merely because exclusive possession of the plaintiff is recorded in the suit land in itself is not sufficient to infer that land of Jumla Mustarka Malkan might have been partitioned, in the absence of any revenue entry to that effect. No date or even year has been disclosed by the plaintiff, when any alleged partition had taken place. As observed by the Courts below, there is no mention in the revenue record regarding the partition of the Jumla Mustarka Malkan property.

9. In view of the aforesaid circumstances, there is no ground to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below, which are based upon proper appreciation of evidence on record. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

Pending application(s), if any, shall stands disposed of.

16.07.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned

: Yes

Whether reportable

: No