

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

1. SAO-27-2023 (O&M)
Date of decision: 28.02.2025

MADHU LATA ..Appellant

Versus

KARAM SINGH AND OTHERS ..Respondents

2. SAO-29-2023 (O&M)

MADHU LATA ..Appellant

Versus

NIRMAL SINGH AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Namit Gautam, Advocate
for the appellant.

Mr. H.P.S. Ghuman, Advocate
for respondent No.1 to 3.

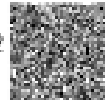
ANIL KSHETARPAL, J(Oral)

1. With the consent of learned counsel for the parties, two connected appeals filed against the First Appellate Court's order reversing the trial Court's order rejecting the plaint shall stand disposed of by this common order.

2. The facts are being noticed from SAO-29-2023.

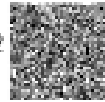
3. Respondent No.1 to 3 filed suit for possession of land measuring 41 bighas and 9 biswas located at Village Hakimpura, Tehsil Nabha, District Patiala.

4. Sh. Nirmal Singh, Sh. Resham Singh and Sh. Balkar Singh (respondent No.1 to 3) filed suit for possession of land measuring 41 bighas



and 9 biswas while claiming decree for declaration that they are owners of the same with a consequential relief of permanent injunction. It is their case that the agrarian authority declared 39.14 standard acre area surplus in the hands of Sh. Baldev Singh and Sh. Sukhdev Singh sons of Sh. Amolakh Singh. Thereafter, some property was allotted to Sh. Desa Singh predecessor in interest of the plaintiffs. Subsequently, Sh. Desa Singh transferred 1/3rd share of one of the land allotted to him in favour of his brother Sh. Balkar Singh under a family settlement, who in turn sold 2 bighas to the vendees. The plaintiffs are claiming that they have been dispossessed from the suit land illegally by defendant No.1 to 3 (big landowners) with the help of revenue/agrarian authorities and their standing crop has been sold. Subsequently, defendant No.1 to 3 sold the suit land to defendant No.4 to 8, who in turn has sold the property to defendant No.9 and his son Sh. Bhupinder Singh. Ultimately, it has been pleaded that the plaintiffs are entitled to possession. Brief reference to a litigation travelling to the Hon'ble Supreme Court is also made in para 19 of the plaint. Defendant No.1 to 3, successor in interest of Sh. Sukhdev Singh filed application under Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint at the threshold, which was allowed by the trial Court, however, in appeal filed by plaintiff No.1 to 3, the same has been set aside and the Appellate Court by an elaborate order has directed the trial Court to proceed with the matter in accordance with law.

5. Learned counsel for the appellant submits that defendant No.1 to 3 delivered possession pursuant to order passed by the Hon'ble Supreme



Court and hence, fresh suit is not maintainable. He also refers to the order passed in Contempt Petition no.6-7 of 2005.

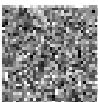
6. This Court has considered the submissions of learned counsel for the parties.

7. Special leave petition filed by Sh. Desa Singh i.e. predecessor in interest of the plaintiffs was disposed of with the following order:-

“We see no ground to interfere with the concurrent findings reached by the authorities below as upheld by the High Court. We further note that the authorities under the Act have directed that the petitioners be given alternative land. We have no doubt that the authorities under the Act. Specially, the Collector, Nabha shall allot alternative lands to the petitioners expeditiously and we are further hopeful that the petitioners shall not be disturbed from their present holdings till they are provided the alternative lands. With these observations, special leave petition is dismissed.”

8. Subsequently, contempt petition was also disposed of on 19.02.2008. It is evident that the plaintiffs are claiming that defendants No.1 to 3 in collusion with the revenue/agrarian authorities have forcibly dispossessed them. They have also alleged that half share of surplus area of 39.14, standard area was owned by Sh. Baldev Singh, which was surrendered in favour of the State of Punjab and thereafter, utilized. Thus, annulment of half share of land of Sh. Baldev Singh is without jurisdiction and equity.

9. Keeping in view the averments made in the plaint, it is not appropriate at this stage to declare that the suit filed by the plaintiff is barred by rule of *res judicata*. In the facts of the case, the defence of *res judicata* will have to be proved by proving the nature of previous litigation, which



arose between the parties. At this stage, only the averments made in the
plaint are required to be examined.

10. Keeping in view the aforesaid discussion, no ground to interfere
is made out.

11. Hence, both the appeals are dismissed.

12. Needless to observe that it shall be open to the appellants to take
defence based on the plea of *res judicata*, which shall be examined by the
Court uninfluenced by the observations made by this Court.

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

February 28th, 2025
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No