

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

RSA-3231-2012 (O&M)

Date of decision: 10.02.2025

DASS RAM

..Appellant

Versus

GURBACHAN SINGH BEDI AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Singh, Advocate
Mr. Abhinav Sood, Advocate for the appellant.

Mr. Adarsh Jain, Advocate for respondents.

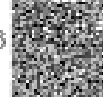
ANIL KSHETARPAL, J(Oral)

I. Brief facts:-

1. The appellant herein was the defendant in a plaintiffs' suit for grant of decree of declaration with consequential relief of permanent injunction or in the alternative for possession. The appellant claims that he was inducted as tenant by the owner namely Sh. Gurmukh Singh somewhere in the year 1968. He claims that in a Civil Suit No.739 dated 13.12.1988, which was decided on 29.08.1990, he was declared to be in possession as tenant. Subsequently, he filed an application for declaring him owner before the revenue authorities on the ground that he was the occupancy tenant, which was also allowed on 19.08.2002. The submission of learned counsel for the appellant that revenue authorities have no jurisdiction to grant declaration with respect to occupancy, tenancy and consequent ownership does not need further deliberation in view of the Full Bench judgment in

Shiv Charan Vs. Financial Commissioner, Haryana and others, 2004(3)

PLR 569.



2. This is defendant's regular second appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment of the trial Court.

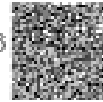
3. Plaintiffs namely Sh. Gurbachan Singh Bedi and Sh. Harbans Singh Bedi filed a suit claiming that their uncle Sh. Gurmukh Singh, who was owner of the suit property died issueless as he was unmarried and therefore, they have inherited the property. It was claimed by the plaintiffs that the defendant has entered possession of the property forcibly. The defendant on the other hand contested the suit claiming that when Sh. Gurmukh Singh was alive, a Civil Court decree dated 29.08.1990 was passed, declaring him to be tenant in possession of the suit property. The trial Court dismissed the suit, however, the First Appellate Court upon reappreciation of evidence, decreed the plaintiffs suit.

II. Arguments put forth by learned counsel for the parties:-

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with requisitioned record.

5. Learned counsel for the appellant has made the following submissions:-

- i. None for the plaintiffs appeared in evidence, hence, adverse inference is required to be drawn against them.
- ii. The plaintiffs have not challenged the correctness of entries in the jamabandies.
- iii. *Rapat Roznamcha* (Daily Diary Report) dated 14.04.1966 does not bear the signatures of any official, hence, its genuineness is not proved.

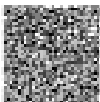


iv. In the civil suit filed in the year 1988, Sh. Gurmukh Singh was served with the notice from the Court, hence, he is proved to be alive upto 1990.

III. Analysis and Discussion:-

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

7. Sh. Tejinder Singh son of one of the plaintiffs has appeared in evidence on the basis of attorney given by his father and uncle. The plaintiffs have produced overwhelming documentary evidence including the copies of mutations of two villages namely Ismailpur and Kidawali. Sh. Gurmukh Singh's property was inherited by the plaintiffs in those two villages on the basis of natural succession. The dispute in the present case is with respect to the property of Sh. Gurmukh Singh in village Bhupani. Moreover, it has been proved on the file and even not disputed by the parties that Sh. Gurmukh Singh was the owner of the property. Jamabandi for the year 1965-1966 proves that Sh. Gurmukh Singh was the owner in possession of the property. The same entries continues in the jamabandi for the year 1970-1971 and 1975-1976. For the first time in October, 1979, the property is shown to be in possession of Sh. Prem Singh and Sh. Lakshman Singh as tenant under Sh. Gurmukh Singh, which continues upto 1990. In the year 1988, Sh. Dass Ram (appellant herein) filed suit by impleading Sh. Prem Singh and Sh. Lakshman Singh and Sh. Gurmukh Singh as parties. The First Appellate Court requisitioned the record of Civil Suit No.739. It was found that there is no evidence to prove that Sh. Gurmukh Singh was ever served with the summons. It has been rather found that there is a report of process server claiming that the summons have been served upon Sh. Gurmukh



Singh, however, neither signature of Sh. Gurmukh Singh nor thumb impression of Sh. Gurmukh Singh has been appended. The report is also not witnessed by any independent person. Moreover, it has come on record that defendant No.1 to 4, the remaining defendants in the suit filed in the 1988 admitted Sh. Dass Ram's claim, hence, a decree was passed on the basis of admission. In fact, the previous decree was passed without adjudicating the case on merits.

8. With regard to the submission of learned counsel for the appellant that the entries have not been challenged, it may be noted that entries in the revenue record are for updating the record. These are not required to be separately challenged as the revenue records are maintained by the State authorities for updation of land records.

9. With reference to *Rapat Roznamcha* (Daily Diary Report), it may be noted that same was exhibited by the trial Court without any objection by learned counsel for the appellant. Moreover, the appellant has not produced any evidence that *Rapat Roznamcha* (Daily Diary Report) produced by the respondents is not a genuine copy from the official record.

10. Moreover, it may be noted that decree passed in the year 1990 has been procured by Sh. Dass Ram (appellant herein) by misrepresentation.

IV. Decision:-

11. Hence, no ground to interfere is made out.

12. Dismissed accordingly.

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

February 10th, 2025

(ANIL KSHETARPAL)
JUDGE

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