

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****208****RSA-2170-2018 (O&M)****Date of decision: 10.11.2025****Jaspal Kaur****...Appellant(s)****Vs.****Arjan Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

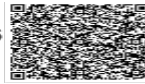
Present:- Mr. Abhimanyu Jairath, Advocate with
Mr. Arshvir Singh, Advocate for the appellant.

Mr. Gourav Chadda, Advocate for the respondent.

NIDHI GUPTA, J.

Defendant is in Second Appeal against the concurrent judgments and decrees of the learned Courts below, whereby suit for permanent injunction filed by the plaintiff/respondent herein, has been decreed by both the Courts below.

2. It is *inter alia* submitted by learned counsel for the appellant that the learned Courts below were in error in decreeing the suit of the respondent as they failed to appreciate the fact that the revenue record, in particular, the Jamabandi entries for the years 1993-1994, 1998-1999 and 1999-2000 show the name of the appellant in the column of ownership. Even in the subsequent Jamabandi entries, there is a note that loan of of Rs.90,000/- was availed from the bank and that this property had been mortgaged. Moreover, learned Courts below had themselves come to the conclusion that the husband of the appellant was



in cultivating possession. It is submitted that in view of these facts, suit of the plaintiff could not have been decreed.

3. It is further submitted that nowhere has it been mentioned in the plaint as to how the respondent/plaintiff came into possession and how he got the mutation entries in his favour. No such order of the revenue authorities has been annexed. Therefore, findings of the learned Courts below that the respondent is in possession, is illegal, vague and baseless.

4. Learned counsel for the appellant further submits that the mutation proceedings conducted by Assistant Collector Second Grade in favour of the respondent are further illegal as they have been sanctioned on the basis of Shijra Nasab and the mutation has not been sanctioned in open village assembly.

5. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

6. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant/defendant.

7. It was the clear pleaded case of the plaintiff/respondent before the learned Courts below that he is in physical possession of the suit land for the last more than 20 years which is in the ownership of Central Government. Plaintiff has claimed himself to be cultivating land as Gair Marusi. In this regard, both the Courts below have returned a



concurrent finding of fact that as per the revenue record comprising of Jamabandi Ex.P1 and Khasra Girdawari Ex.P2, possession of the plaintiff over the suit property is established. Possession of the plaintiff over the suit property is also proved from the evidence of the plaintiff himself as PW1, and PW2 Virsa Singh and PW3 Narinder Singh. No doubt, presumption of truth is attached to the revenue record, which is rebuttable. However, as per the record, appellant has been unable to rebut the same.

8. On the other hand, appellant had failed to produce any revenue record to show her possession over the suit property or that of her husband. As per the judgments of learned Courts below, defendant had only produced Power of Attorney Ex.D1 to prove her ownership over the suit land. Jamabandis of years i.e. 1993-1994, 1998-1999 and 1999-2000 do not find mention in the record as also of the judgments and decrees of the learned Courts below. Even the orders Mark A and Mark B produced by the defendant by way of additional evidence before the first Appellate Court, were not proved by the defendant. Mark A is the order dated 08.02.2013 whereby application of the defendant for correction of khasra girdawari was accepted. Vide order dated 27.09.2013, the SDM had dismissed the appeal of the plaintiff. However, vide order dated 23.08.2016 (Annexure A-9), appeal of the plaintiff was accepted by the IAS, Commissioner (Appeals), Jalandhar and orders dated 08.02.2013 and 27.09.2013 were set aside.



9. The relevant para as contained in order dated 23.08.2016 passed by learned IAS, Commissioner (Appeals), Jalandhar is as under:-

"I have considered the arguments advanced by the counsel for the petitioner and also perused the orders passed by the SDM cum Collector and A.C. 2nd Grade, Bholath. Perusal of the Jamabandi of khasra girdawari shows that present petitioner is in possession of the suit land. The correction of the khasra girdawari was done without any cogent reasons by the Tehsildar cum A.C. 2nd Grade, Bholath. The present petitioner filed the suit for permanent injunction against the present respondent and the court of Sh. Balwinder Kumar, Chief Judicial Magistrate, Sr. Division Kapurthala has decreed the suit regarding permanent injunction of the disputed land in favour of the present petitioner vide his orders date 28/9/2015 and restrained the defendants from interfering in the possession of the plaintiff over the suit land or taking forcible possession of the same from the plaintiff in any manner except following due course of law. The order of the SDM cum Collector, Bholath and A.C. 2nd Grade is sketchy. So, keeping in view the discussion above, revision petition is accepted and orders passed by the lower courts are set aside."

10. The relevant findings as contained in para 21 of the judgment and decree dated 21.02.2018 passed by learned Additional District Judge, Kapurthala, are as under:-

"21. DW2 Gulzar Singh and DW3 Madan Singh have also affirmed in his affidavit that the land was allotted in favour of Hazara Singh, who sold the same to the appellant through his attorney Jaswant Singh and delivered the



possession. As per the case of the appellant, the allotment in favour of Hazara Singh was set aside and the suit property became custodian. Meaning thereby the suit property still vests in favour of Central Government. The case of the appellant has been that the application for correction of khasra girdawari was moved as per the application mark A and his application was accepted vide order dated 08.02.2013 passed by the Assistant Collector IIInd Grade. The appeal filed by the respondent was dismissed vide order dated 27.09.2013 passed by the SDM-Collector, but the Commissioner appeals filed order dated 23.08.2016 accepted the appeal filed by the respondent and the orders dated 08.02.2013 and 27.09.2013 were set aside. Meaning thereby the entry in favour of respondent still exists. The correction of khasra girdawari was held to be done without any cogent reason and was accordingly set aside. There is nothing on record to establish that the respondent has not been in possession of the suit property. The presumption is rebuttable. Onus was on the appellant to rebut the presumption but no such evidence is there on the file to rebut the presumption of possession in favour of the respondent.”

11. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

12. In view of the above, I find no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

13. Pending applications, if any, stand disposed of.

10.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No