



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

109

RSA-337-2020 (O&M)**Date of Decision : 20.02.2025**

MAGHAR SINGH

.... Appellant

VERSUS

KULWANT SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. P.K. Ganga, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 20.01.2016 passed by the Trial Court and the judgment and decree dated 18.10.2019 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for declaration stating that Lal Singh (his father) was owner in possession of the suit land and after his death the plaintiff-appellant along with the other legal heirs were the owners and in possession of the suit land. It was further the case that the father of the plaintiff-appellant was a small landowner and that there was no land in the surplus pool. It was further the stand taken that the allotment order dated 25.04.1984 passed by the Prescribed Authority, Mandi Dabwali was wrong and illegal and liable to set aside.

3. In the written statement defendant-respondent No.2 raised preliminary objections regarding maintainability, *locus standi* etc. On merits it was stated that Lal Singh – father of the plaintiff-appellant – was a big landowner and the property being surplus was allotted to different persons including defendant-respondent No.2 vide order dated 14.05.1984 and a specific portion was given to defendant-respondent No.2. Defendant-respondent No.1 and proforma defendant-respondents No.3 to 14 admitted the claim of the plaintiff-appellant.

4. Replication was filed reiterating the averments made in the plaint and denying those made in the written statement. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to relief of declaration as prayed for ? OPP
2. If issue No.1 is decided in favour of the plaintiff, whether the plaintiff is also entitled for the relief of 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 locus standi and cause of action to file the present suit ? OPD
5. Relief.

5. The Trial Court vide judgment and decree dated 20.01.2016 dismissed the suit. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate

Court vide judgment and decree dated 18.10.2019. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing the suit. It is urged that the plaintiff-appellant's father was not a big landowner and that the allotment in favour of defendant-respondent No.2 was not sustainable in law.

7. Heard.

8. In the present case the only challenge is to the allotment order dated 25.04.1984 vide which the land declared as surplus in the hands of the father of the plaintiff-appellant was allotted to defendant-respondent No.2. It is an admitted case that there has neither been any challenge to the orders dated 18.05.1982, 11.07.1961, 27.07.1976, 11.09.1980 and 28.05.1982 nor is the State of Haryana or the Prescribed Authority been impleaded as a party. In the absence of having challenged the orders declaring the land surplus in the hands of the father of the plaintiff-appellant, the present suit itself was not maintainable. In view thereof, no fault can be found with the judgments and decrees passed by both the Courts concerned.

9. In view of the above, I do not find any merit in the present regular second appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The regular second appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.02.2025

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No