

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

RSA No.1935 of 2013 (O&M)

Date of decision: 28.09.2018

Chinto

..... Appellant

Versus

Sampuran Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Amarjit Markan, Advocate and
Mr. Ram Bilas Gupta, Advocate
for the appellant.

Mr. Parvinder Singh, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM-5147-C-2013

Application is allowed and the delay is condoned.

Main Case

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

In the considered opinion of this Court, the question which needs determination is:-

“Whether the entry in the revenue record beyond the land transferred through sale deed confers any right on the vendee?”

Undisputed facts as found by both the Courts below are that predecessor of the plaintiff-appellant Sh. Aasu sold 25 kanals and 2 marlas of land vide sale deed dated 29.10.1958. The sale deed was not including any share in proprietary land (shamlat land). However, since the entry was

made in the revenue record in the shape of mutation with respect to share in the proprietary land also, therefore, the plaintiff filed a present suit. Both the Courts below have dismissed the suit on the ground that the suit is barred by limitation and detail of the property has not been given.

As regards limitation, an owner is entitled to file a suit for declaration within three years from the date cause of action accrues to him. It is also well settled that the mutation or entry in the revenue record neither confers any ownership nor give rise to any cause of action. Hence, the suit filed by the plaintiff cannot be dismissed on the ground that entry was made more than 40 years before filing of the suit.

As regards second argument, it will be noted that the entry which is sought to be declared illegal and consequently, corrected is a undivided share in the proprietary land. The proprietary land is comprised in joint khewat which is owned by all the proprietors jointly. Hence, the plaintiff cannot claim ownership of a particular khasra number or specific share in the joint khata.

Learned counsel for the respondent although does not dispute the factual position but submits that there is acquiescence by the plaintiff as she knew about the entry in the revenue record but she did not challenge the same. Learned counsel has read over the statement of the plaintiff who admit that she knew about the entry. In the considered view of this Court, knowledge of an entry cannot be the starting point of limitation particularly when mutation entry is neither a document of title nor give rise to any cause of action. Mutation entry is only for updating the revenue record and any person aggrieved by an entry is not required to file the suit by counting limitation from the date of such entry has been wrongly entered unless his

or her right is threatened. As such, the argument of learned counsel is that there is acquiescence by the plaintiff does not hold good.

Keeping in view the aforesaid undisputed facts, the question as framed is answered in favour of the plaintiff-appellant.

Hence, the judgment and decree passed by the Courts below are set aside. The revenue authorities are directed to correct the mutation and consequent revenue entries with respect to the property which was part of proprietary land (shamlat) and not subject matter of sale deed.

Regular second appeal is allowed.

CM-14956-C-2014

In view of the judgment passed in the case, learned counsel for the appellant prays that the application be dismissed as not pressed.

28.09.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No