
(2002) 07 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1834 of 2002

Mohinder Singh

APPELLANT

Vs

Piara Singh

RESPONDENT

Date of Decision : 02-07-2002

Acts Referred:

Citation : (2002) 4 RCR(Civil) 126

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : G.S. Punia, for the Appellant; Hemant Kumar and Alik Jain, for the Respondent

Final Decision : Dismissed

Judgement

Ashutosh Mohunta, J.—This judgment will dispose of R.S.A. Nos. 1834 of 1981 and 1281 of 1988 and Civil Writ Petition Nos. 19365 and 19366 of 1966 as the facts are similar in all of them and the parties are the same.

2. In brief, the facts of the case are that the land in dispute measuring 19 kanals 8 marlas, situated in the revenue estate of village Sarangpur Phasse, Tehsil and District Ropar, was allotted to Piara Singh respondent on April 25, 1979 under the Punjab Package Deal Properties (Disposal) Act, 1976 (for short "the Act") on the basis of his possession, by the Naib Tehsildar, Chamkaur. Sahib Mohinder-Singh, plaintiff-appellant filed a suit for permanent injunction restraining Piara Singh, defendant-respondent, from interfering into his peaceful possession. The said suit was decreed in favour of Mohinder Singh on the ground that his possession stood proved on the land in dispute. However, under issue No. 2 it was held by the learned Senior Sub Judge that the said land was owned by the Government of Punjab and had been purchased by Piara Singh respondent. In appeal filed by Piara Singh respondent, learned District Judge, Rupnagar, vide judgment dated July 24, 1981 dismissed the suit filed by Mohinder Singh, plaintiff-appellant. Against the judgment and decree passed by the learned District Judge, Mohinder Singh filed the present regular second appeal. At the time of admission, the

learned Judge ordered for maintenance of status quo.

3. Against the order of allotment of the land in favour of Piara Singh respondent, the appellant moved the revenue authorities and pleaded that the allotment had wrongly been made in Piara Singh favour as the said land was in his own possession and had been purchased by him from Ram Lok, father of Piara Singh respondent. The contention raised by Mohinder Singh appellant had been rejected by the authorities concerned. The authorities took the stand that the possession of Mohinder Singh was not proved and the allotment in favour of Piara Singh respondent had rightly been made. To challenge the stand taken by the revenue authorities, Mohinder Singh appellant filed Civil Writ Petition Nos. 19365 and 19366 of 1996.

4. The conveyance deed with regard to the allotment of the land in dispute had been executed on September 24, 1981 in favour of Piara Singh respondent. Mohinder Singh appellant committed trespass and took forcible possession of the land in dispute on September 25, 1983. Piara Singh filed a suit against the possession of the land by Mohinder Singh appellant. The said suit was decreed by the learned Additional Senior Sub Judge, Ropar, vide judgment dated October 21, 1985. Mohinder Singh appellant filed an appeal. The learned Additional District Judge, Ropar, dismissed the appeal vide judgment and decree dated May 2, 1988. To challenge the judgments and decrees passed by the Courts below, Mohinder Singh appellant has filed R.S.A. No. 1211 of 1988.

5. I have heard the learned Counsel for the parties and with their assistance have gone through the evidence on record.

6. The primary contention raised by the learned Counsel for the appellant is that the appellant had purchased the land in dispute from Ram Lok, father of Piara Singh respondent, and he was in possession of the same at the time the allotment was made in favour of the respondent.

7. I do not find merit in the contention raised by the learned Counsel for the appellant. It has been amply proved on record that the appellant was not in possession of the land in dispute at the time the allotment of the same had been made in favour of Piara Singh respondent. The contention raised by the appellant that he had purchased the said land from Ram Lok, father of the respondent, is without any basis as no valid documentary proof has been produced by him in favour of his assertion. If he had purchase the land from Ram Lok, then he should have got the sale deed executed in his favour. The agreement dated March 1, 1978 (Ex.P2), vide which the appellant represents to have purchased the land, cannot be said to be a valid document. It has been the consistent stand of the revenue authorities that respondent Piara Singh was in possession of the land on the date the allotment was made in his favour. The appellant was not eligible for allotment at the time the said land was allotted in favour of Piara Singh respondent. In para No. 4 of C.W.P. No. 19465 of 1996 it has been admitted by the appellant that during the pendency of the proceedings he

became eligible for allotment of land" and as such he "also applied for allotment of land". This admission on the part of the appellant goes to prove that he was not eligible for allotment of the land at the time Piara Singh respondent was allotted the land in dispute. It has also been admitted by the appellant that he had moved an application for allotment of the land in dispute in his favour in the year 1979 before the Tehsildar, but the same was not allotted to him. The appeals and revisions filed by him had consistently been dismissed by the revenue authorities concerned. There is also an admission on the part of the appellant that his possession on the suit land was unauthorised. As the facts, emerge from the record, the land in dispute was owned by the Punjab Government. It has now been allotted to Piara Singh respondent under the Act on the basis of his possession thereon. The conveyance deed had been executed in his favour on September 24, 1981. Mohinder Singh appellant had taken forcible possession of the land on September 25, 1983. Both the Courts below have decreed the suit filed by Piara Singh respondent against the forcible possession of Mohinder Singh appellant. This is a concurrent finding of fact, which cannot be gone into in the second appeal.

8. In the light of the above discussion, I do not find any merit in R.S.A. Nos. 1834 of 1981 and 1211 of 1988 as well as Civil Writ Petition No. 19365 and 19366 of 1996. These are, accordingly, dismissed with costs. The counsel's fee is assessed as Rs. 5000/-. The possession of the land be delivered to Piara Singh respondent forthwith.