
(2003) 08 P&H CK 0078

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2420 of 1986

Sehjad (Died) through LRs.

APPELLANT

Vs

Shanti Devi

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Citation : (2004) 1 LJR 760 : (2003) 4 RCR(Civil) 846

Hon'ble Judges : Viney Mittal, J

Advocate : Shri R.A. Yadav, Advocate. Shri Shailendra Jain and Shri R.K. Jain, Advocates., Advocates for appearing Parties

Judgement

Viney Mittal, J.—This order shall dispose of Regular First Appeal Nos. 2420 of 1986 and 663 of 1996 as common questions of fact and law are involved. For the sake of convenience, facts have been culled out from RFA No. 2420 of 1986.

2. Vide notification dated September 14, 1983, issued under Section 4 of the Land Acquisition Act, land was intended to be acquired by the State of Haryana. The land was ultimately acquired. Award dated July 16, 1985 was passed by the learned Land Acquisition Collector. There was a dispute between the cosharers with regard to apportionment of compensation. Sehjad, one of the cosharers claimed that he was in cultivating possession of share of land belonging to Shanti Devi as well as Mani Ram over their 1/6th share each. It was further claimed that his possession was open, hostile and continuous to the aforesaid land owners and as such the same had matured into ownership by way of adverse possession. On the basis of aforesaid plea of adverse possession, Sehjad claimed that he was entitled to the possession qua the share of Shanti Devi and Mani Ram as well.

3. He claimed a reference under Section 30 of the Land Acquisition Act with regard to apportionment of compensation. The reference was made.

4. The parties led their evidence before the learned District Judge, Gurgaon during the course of reference proceedings.

5. Sehjad claimant relied upon a Jamabandi for the year 198283, Exhibit P2 to

contend that he was in possession of the land of the share of Shanti Devi and Mani Ram and as such had matured his title by way of adverse possession.

6. The learned District Judge vide award dated October 9, 1986, rejected the claim of aforesaid share holder Sehjad and accordingly held that he was merely entitled to 1/8th share of compensations per his entitlement.

7. The aforesaid claimant has felt aggrieved against the award passed by the learned District Judge and has filed the present appeal.

8. I have heard Shri R.A. Yadav, learned counsel appearing for the claimant/appellant and Shri Shailendar Jain and Shri R.K. Jain, learned counsel appearing for the respondents and with their able assistance, gone through the record of the case.

9. Shri Yadav has reiterated arguments raised by the appellant before the learned District Judge. Again reliance has been placed upon Jamabandi for the year 198283 Exhibit P2. It has been contended by Shri Yadav that it is proved from the aforesaid Jamabandi Exhibit P2 that Sehjad was in possession of the aforesaid land belonging to Shanti Devi and Mani Ram and, therefore, it was he alone to the exclusion of aforesaid land owners, who was entitled to claim compensation qua their share as well.

10. On the other hand, Sarvshri Shailendar Jain and R.K. Jain, learned counsel appearing for the respondents have submitted with vehemence that there was absolutely no evidence to support the plea of claimant Sehjad with regard to adverse possession. It is further contended that in any case, claimant Sehjad being a small share holder could not be allowed to take up the plea of adverse possession against the remaining sosharers unless and until it was shown by him that there was some overt act by which the remaining cosharers have been ousted.

11. I have given my careful consideration to the rival pleas raised by the learned counsel for the parties.

12. From the perusal of Jamabandi, Exhibit P2, it is proved that Sehjad was recorded as owner of 1/8th share. Additionally, he was also recorded in possession of share of Shanti Devi and Mani Ram and his possession was recorded as Gair Marusi. Even from the perusal of aforesaid entry, the contention of claimant that he was in unauthorised possession of the land and that his aforesaid possession had matured into ownership by way of adverse possession cannot be accepted. There is no such entry available on the record nor any such inference can be drawn, as is being suggested by the learned counsel for the claimant.

13. Even otherwise, it is not in dispute that Sehjad, Shanti Devi and Mani Ram were all cosharers of the acquired land. The claim of Sehjad was qua his 1/8th share. Shanti Devi and Mani Ram were share holders to the extent of 1/16th share each. No evidence has been led by the claimant to show the ouster of

remaining cosharers from the land in dispute. No overt act has been proved nor any plea in this regard has been taken. Mere reliance upon entry, Exhibit P2, does not advance the case of claimant in any manner.

14. In this view of the matter, I do not find any merit in these appeals. The same are accordingly dismissed with no order as to costs.