
(2015) 07 P&H CK 0317
In the Punjab And Haryana At Chandigarh
Case No : RSA No. 225 of 2000

State of Punjab and Others	Vs	APPELLANT
Kaushal Kaur and Others		RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Citation : (2015) 4 RCR(Civil) 827

Hon'ble Judges : Ramendra Jain, J.

Bench : Single Bench

Advocate : Diepa Singh, Addl. A.G., for the Appellant; Vishal Mittal, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ramendra Jain, J.—State of Punjab has preferred the present regular second appeal against judgment and decree dated 09.08.1999 passed in Civil Appeal No. 152 of 10.12.1997 by learned District Judge, Bathinda titled as Khushal Kaur daughter of Harnam Kaur v. Punjab Government and others. Brief facts of the case are that Harnam Kaur mother of the respondent-plaintiff filed a suit in the year 1993 to declare her owner in possession of land measuring 46 Kanals 7 marlas (hereinafter called the suit land) by setting aside mutation number 5175 and 5176 dated 13.05.1993, having no binding effect upon her rights, pleading that she and her predecessors-in-interests were cultivating the same as "Adna Malik" since last more than 60 years, without payment of any rent or Theka. Thus their possession had ripened into their ownership by way of adverse possession.

2. In the year 1951, the ownership of the suit land was transferred in favour of "Provincial Government" by deleting the name of Maharaja Faridkot. However, the respondent-plaintiff or her forefathers had never accepted the "Provincial Government" as their landlord. On deletion of the name of Maharaja Faridkot, the respondent-plaintiff or her forefathers should have been recorded as owner of the suit land.

3. The appellants contested the suit by filing written statement admitting that initially the suit land was part and parcel of "Faridkot Riyasat" which had now vested in the State of Punjab. It was pleaded that at present the "Provincial Government" was owner of the suit land and the respondent-plaintiff had no right, title and interest whatsoever in it. The suit land shall be auctioned in accordance with the instructions of the Punjab Government. The parties led their evidence to their satisfaction.

4. After hearing learned counsel for the parties, learned trial Court dismissed the suit with costs vide judgment and decree dated 28.10.1997.

5. Being aggrieved, the respondent-plaintiff filed appeal before the learned District Judge, Bathinda, who accepted it, vide judgment and decree dated 09.08.1999, declaring her owner in possession of the suit land by way of adverse possession by setting aside mutations No. 5175 and 5176 being illegal, having no binding effect upon her rights. It was also observed that the rights of the vendees of the respondent-plaintiff i.e. pro-forma respondents No. 1 to 5 shall not be effected, who purchased some part of the suit land from Harnam Kaur-mother of respondent-plaintiff.

6. Aggrieved with the same, the State of Punjab has preferred this second appeal.

7. I have heard learned counsel for both the sides.

8. Undisputedly, Maharaja Harinder Singh was "Ala Malik" i.e., superior proprietor of the suit land whereas respondent-plaintiff and her forefathers were in possession of the same as "Aetna Maliks". The Pepsu Abolition of Ala Malikiyat Rights Act, 1954, extinguished the rights of "Ala Maliks" and resultantly the full proprietary rights vested in "Adna Maliks". The said Act, in-fact, repealed the Patiala and East Punjab States Union Abolition of Ala Malikiyat Rights Act, 1953.. The long continuous possession of the respondent-plaintiff and her forefathers was admitted by the appellants. In the State of Punjab, the Punjab Abolition of Ala Malikiyat and Talukdari Rights Act, 1952 was enacted w.e.f. 15.08.1953 which again extinguished the rights of "Ala Malik". That act repealed the Punjab Abolition of Ala Malkiyat and Talukdari Rights Act, 1951. Admittedly, on the date of enactment of Pepsu Act, the respondent and her forefathers were in possession of the suit land as "Adna Malik". Thus, the suit land vested in them on the commencement of the Act. Hence, such finding of the first appellate Court cannot be said to be suffering from any patent illegality or material irregularity.

9. A similar dispute has been decided vide judgement dated 29.07.2003 passed in RSA No. 620 of 2000 titled as The State of Punjab and Others v. Mandar Singh and Others and further in the judgment dated 11.08.2006 in RSA No. 3081 of 2005 titled as The State of Punjab and Another v. Bikkar Singh and Others. Learned State counsel has fairly conceded that SLP No. 8974 of 2004 against the judgment of this Court dated 29.07.2003 passed in RSA No. 620 of 2000 (Supra) filed by the State of Punjab has been dismissed by the Hon"ble Supreme Court vide order dated 08.10.2004. Hence, the dispute raised in this appeal has

already been answered/decided in favour of the similarly situated person as "Adna Malik", like the respondent plaintiff.

No other point urged before me.

I have gone through the impugned judgment and decree and found no illegality and perversity in the same.

In view of the above discussion, I do not find any merit in the appeal. Consequently the same is dismissed with costs.