

Punjab-Haryana High Court

JUSTICE AMIT RAWAL

Dalbir Singh @ Balbir Singh v. Jagtar Singh

RSA No. 3823 of 2012

09.05.2016

Adverse possession - Claim of - Submission that father of the appellant-defendants were owners in possession of the land during their life time on the basis of exchange deed for the last 40years - Even they acquired the ownership by way of adverse possession and that the possession of aforementioned persons is open, continuous, notorious and without any break, much less animus possendendi, thus ingredients of adverse possession have totally been proved - Once the jamabandi reflects the status of the appellant being tenant, the tenant cannot acquire right of ownership.

Mr. K.P. S. Sandhu, for the appellant.

Amit Rawal, J (Oral). -

CM No. 5975-C of 2016 For the reasons stated in the application, application is allowed.

The application bearing No.12173-C of 2014 is restored back to its original number. CM No. 12173-C of 2014 For the reasons stated in the application, application is allowed.

The appeal is restored back to its original number. RSA No. 3823 of 2012 The appellants-defendants are aggrieved of the decretal of the suit seeking possession of land measuring 8 Kanals bearing khasra No.56/14.

Learned counsel for the appellants submits that father of the defendants namely Karnail Singh along with Joginder Singh and Gian Singh were owners in possession of the land during their life time on the basis of exchange deed dated 2.3.1959. Even they acquired the ownership by way of adverse possession. The possession of aforementioned persons is open, continuous, notorious and without any break, much less animus possendendi, thus ingredients of adverse possession have totally been proved, yet the courts below decreed the suit, thus urges this court to formulate substantial questions of law for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book and of the view that once the jamabandi reflects the status of the appellant being tenant, the tenant cannot acquire right of ownership, rightly so the suit for possession has been decreed as indisputably the respondents-plaintiffs are owners of the property in dispute. The judgment was rendered by the trial court on 28.9.2011 and there was no interim stay during that period. Presumably, the decree must have been executed by now.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL) JUDGE May 9 , 2016