



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA No.41 of 2019 (O&M)

Date of Order:14.05.2025

Omkar Singh

.Appellant

Versus

Kashmir Singh (Deceased) through LRs

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankush Singla, Advocate, for the appellant.

Mr. Mandeep K. Sajjan, Advocate

Mr. Vikram Kumar, advocate

Ms. Ashwarya Sharma, Advocate

for respondents no.4 and 5.

ANIL KSHETARPAL, JUDGE (Oral)

1. As per the concurrent findings of courts below, the appellant (Decree Holder) obtained the decree for specific performance of the agreement to sell against Kashmir Singh by concealing the material facts and playing fraud. It has come on record that Kashmir Singh exchanged his 44 kanals and 9 marlas land of Bakshish Singh and Nishan Singh. Mutation of exchange was sanctioned in the revenue record on 31.10.2011. The plaintiff while filing the suit on 18.07.2012, relied upon the jamabandi for the year 2005-06, though, current jamabandi for the year 2010-2011 was available. Thus, the Courts have held that the decree against Kashmir Singh cannot be implemented against Bakshish Singh.

2. The learned counsel representing the appellant has made the following submissions:-

- (i) The agreement to sell was entered on the basis of jamabandi for the 2005-06, hence he was not required to



produce the latest jamabandi;

(ii) It is submitted that the appellant is holder of an agreement dated 01.02.2010 which is prior to the date of exchange.

3. This court has considered the submissions of the learned counsel representing the parties.

4. The decree for specific performance of the agreement to sell is granted only to enforce the agreement already executed. It is a judgment in personam. It is evident that the plaintiff in order to conceal from the courts that there is an exchange of the land, failed to produce the latest revenue record i.e. jamabandi for the year 2010-2011. Bakshish Singh and Nishan Singh had exchanged 44 kanals and 9 marlas land with equal land of Kashmir Singh. Hence, it is not appropriate to deprive Bakshish Singh from his property. Moreover, the heirs of Kashmir Singh have sold the property received in exchange from Bakshish Singh and Nishan Singh in December, 2016.

5. The appellant cannot claim any superior right because he obtained the decree by concealment of material facts.

6. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

7. Dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

May 14, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No