



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

1. SAO-45-2012(O&M)
Date of decision: 14.01.2025

RASAL SINGH AND ORS

..Appellants

Versus

SHAMIR SINGH AND ANR

..Respondents

2. RSA-4277-2012

RASAL SINGH

..Appellant

Versus

SHAMIR SINGH AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Arora, Advocate
for the appellant.

Mr. Vinod Kumar Kaushal, Advocate
for respondent

ANIL KSHETARPAL, J(Oral)

1. With the consent of learned counsel representing the parties, RSA-4277-2012 and SAO-45-2012, shall stand disposed of by this common order.

2. The facts are being taken from the paperbook of RSA-4277-2012.

3. This is the defendant's regular second appeal against the ex parte judgment passed by the First Appellate Court.

4. In SAO-45-2012, the application filed by defendant No.1 for re-hearing of the appeal has been dismissed. Thus, defendant No.1 has filed the



appeal on merits as well as against dismissal of an application for re-hearing of the appeal.

5 The plaintiff Sh. Shamir Singh filed suit for possession of three separate parcels of land. The description of the suit property as given in caption of the suit is as under:-

“Suit for possession in respect of land measuring 1 K-18 marlas out of land measuring 4 K-12 M comprising Khewat No. 42, Khatuni No. 74,79 Khasra No. 119 (4-0) 93 (0-2) 94 (0-1) as entered in the J.B for the year 94/95 situated inkhedde Tehsil and Distt. T.T and revenue entries ordered to be corrected as per J.B. for year 94/95 situated inkhedde Tehsil and Distt. T.T and revenue entries ordered to be corrected as per J.B. for year 57/58. Suit for possession in respect of vacant plot/manure pits measuring 4 K- 7 M 6 sarsahi shown red in site plan situated within abadi Deh of Kheedde, bounded as under.

North: property of Kashmir Kaur Banta Singh and Bali Singh.

South: Partap Singh, Deep Singh.

East: Property of Haris. Dara Singh and Jagir Singh.

West: Khasra No. 93-119 and

Suit for possession in respect of vacant plot measuring 1 K-0 Marla shown as red in the and situated in Abadi Deh of village Khedde Tarn Taran and bounded as under:-

North: Gali property of Gian Singh.

South: Property of Kashmir K. Banta Singh and Kulwant Singh.

East: Property of Gurnam Singh.

West: House of Bali Singh”

6 The plaintiff came to the court alleging that on account of terrorism in the area, he started residing in the city and the defendants took forcible possession of the suit property, hence, the suit was filed. The defendants contested the suit. The trial Court dismissed the suit on the ground that the plaintiff has failed to seek declaration that the entries in the revenue records are incorrect. When first appeal was filed, defendant No.1



did enter appearance but subsequently absented himself, hence, proceeded against ex parte. The First Appellate Court held that plaintiff is joint owner of 5/12th share in the land measuring 1 kanal and 18 marlas land i.e. property No.1.

7. The First Appellate Court has recorded detailed findings of fact after re-appreciating the entire evidence. It has come on record that defendant No.1 claims to have purchased the property from Smt. Chint Kaur and Smt. Kashmir Kaur. However, it has come on record that Smt. Chint Kaur did not become owner of the property as it was only a part of the property gifted to her by Sh. Nirmal Singh.

8. Learned counsel representing the appellant has submitted that the plaintiff was required to file a suit for declaration as the entries in the revenue record were required to be set aside and challenged. He submits that without seeking relief of declaration, the suit for possession was not maintainable.

9. This Court has examined the judgments passed by both the Courts while considering the submissions of learned counsel representing the parties.

10. Once, a suit for possession claiming to be owner of the suit property has been filed, the relief of declaration is implicit therein. No separate relief of declaration was required to be filed. It has been found that the plaintiff and defendant are co-sharer in the suit property. Thus, the Court has only passed the decree declaring that the plaintiff is entitled to 5/12th share in the land comprised in Khasra No.93, 95 and 119.



11. Learned counsel representing the parties did not press any other point.

12. In view of the aforesaid, both the appeals are dismissed.

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

January 14th, 2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*