

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.79 of 1990

Date of decision: 16.10.2015

Brij Lal (deceased) through LRs

... Appellant

Versus

S.D.O. PWD B&R, The. Phillaur Distt. Jalandhar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Arun Nehra, Advocate for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Suit filed by the plaintiff was decreed by the trial court vide judgment and decree dated 30.03.1987. Appeal preferred by defendant No.2 was partly accepted and the finding recorded by the trial court; that plaintiff-Brij Lal was the owner of the suit property, was reversed. Meaning thereby, a decree for perpetual injunction restraining the defendants from causing forcible dispossession of the plaintiff from the suit land, except in due course of law, was granted in his favour. That is how, plaintiff is before this court vide this regular second appeal. The conclusion recorded by the first appellate court reads as thus:

“7. In this case the counsel for the appellant argued that the plaintiff respondent is not the owner of the Thara or Chapper. Ex.PW3 is site plan

of the property. Ex.P1 is the copy of the sale-deed vide which Brij Lal has purchased the property. It is not mentioned in the sale-deed the area of the property. It is also not mentioned in the sale-deed the length and width of the property purchased by Brij Lal. Even in the site plan Ex.P2 the length of the property purchased by Brij Lal is 42' - 11" and the other portion is shown as vacant. In the site plan Ex.P3 it is 7' x 35' and the land has been shown in occupation of the respondent. So from the document Ex.P1 to P3 it is not proved that the respondent plaintiff is owner of the Thara and the Chhapper. No doubt it has come into the evidence that he is in possession of that site. The lower Court has wrongly decided the ownership of the respondent only on the basis of the possession. Rather the documentary evidence produced by the respondent shows that he is not owner of that portion i.e. Thahra and the Chhappar. So the finding of the lower Court on issue No.1 is partly wrong that the plaintiff is owner of the suit property. When the respondent plaintiff is in possession of the same then the appellant cannot dispossess him forcibly. Moreover, it is the allegation of the appellant in their written statement that they started proceedings against the respondent under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 which means the appellant is acting legally but it is the allegation of the respondent that the appellant is trying to demolish the same forcibly so the respondent is entitled to get the injunction restraining the appellant to dispossess the respondent forcibly from the suit property."

Ex facie, nothing was brought on record, least any cogent or credible evidence, to show that appellant/plaintiff was indeed the owner of the site in dispute. Sale deed (Ex.P1) vide which plaintiff purports to have purchased a property, does not depict the exact area that was purchased. Even the length and width of the property that was purchased by the plaintiff does not find mentioned in the sale deed. Therefore, on the basis of these documents, plaintiff could not be held to be the owner of the suit property. But, as plaintiff was found to be in settled possession, decree for injunction restraining the defendants from causing his forcible dispossession, except in due course of law, was rightly granted.

Learned counsel for the appellant could not point out as to how the conclusion recorded by the first appellate court in this regard was either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is accordingly dismissed.

October 16, 2015
Rajan

(Arun Palli)
Judge

