

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA No.1056 of 2010 (O&M)
Date of Decision: 21.05.2015**

Rajasthan Government & anr.

... Appellants

Versus

Nazar Singh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. TN Sarup, Addl. A.G., Punjab,
for the appellants.

Mr. SS Brar, Advocate, for
Mr. AS Sivia, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

Heard.

This is State's second appeal against appellate court decree which rejects the case of the plaintiff/respondents that they would acquire rights of ownership by prescription on a plea of adverse possession. However, the lower appeal court has accepted that plaintiffs' possession over the disputed property deserves to be protected at least against unlawful eviction except in due process of law.

Mr T. N. Sarup appearing for the appellant State submits that the appeal has been wrongly allowed partially by giving protection to the plaintiffs against eviction straightaway and ought not to have afforded the protection of due process to the plaintiffs against the true owner which direction is said to be suffering from error.

But in raising this argument, the learned State counsel forgets

that the respondents are not in appeal assailing the finding as to adverse possession to which they have succumbed, and rightly so, since it is well settled position in law that a plaintiff cannot claim ownership rights based on adverse possession as it is a plea which can be taken in defence against a suit. I would not agree with Mr. Sarup in his submission that the courts *a quo* should not have given even the minimal protection against unlawful dispossession as rank trespassers who cannot claim injunction against the true owner for the reason that the State is free to seek legal redress by resort to due process to seek repossession of the property in accordance with law.

Therefore, I do not find any merit in this appeal, which is based on a wrong notion of the right to eviction of the respondents/plaintiffs forcibly at the hands of the police as the suggestion appears to foretell. The State should not be heard on this argument in a court of law that it can take law into its own hands to throw out the plaintiffs from the suit property without due authority and by procedure established by law. Hence, the appeal stands dismissed as this court finds no infirmity in the appellate decree partially allowing the suit and protecting the plaintiffs from forcible eviction except in accordance with law and by decree. No substantial question of law arises in this case for admission of the appeal. Appeal to stand dismissed.

21.05.2015
monika

(RAJIV NARAIN RAINA)
JUDGE