

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.4653 of 2010 (O&M)

Date of decision: 11.09.2015

Joginder Singh

..... Appellant

versus

Tarsem Singh and others

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.B.S.Bhinder, Advocate for the appellant
Mr.Sunil Agnihotri, Advocate for respondents

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Impugned in the present regular second appeal is the judgment and decree dated 10.11.2009, passed by the learned Additional District Judge, Hoshiarpur, affirming the judgment and decree dated 3.2.2006, passed by the learned Civil Judge, Senior Division, Dasuya, vide which, suit of the plaintiff – respondent was partly decreed for possession of land measuring 11 -1/2 marla with costs over which encroachment of defendant Nos.1 and 3 from khasra Nos.20R/16 has been found. The details of such encroachment by defendant No.3 was mentioned in the decree. The super structure of defendant Nos.1 and 3 were also ordered to be removed. Suit for possession by way of partition by metes and bounds against defendant No.4 regarding the said land was

dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

The perusal of the lower Court judgment shows that the plaintiff had claimed the possession of land measuring 13 marla of khasra No.20R/16 (6-18). The lower Court recorded the findings that the present appellant and his brother had purchased a specific khasra No. bearing 20R/25/1/1 to the extent of 10 marla from Diwan and Mela sons of Roor. Therefore, it was held that they cannot be said to have purchased any land from khasra No.20R/16.

The plea of learned counsel for defendant Nos.1 and 3 that since the said khasra falls in the same khewat i.e. Khewat No.166, therefore, it shall be deemed to be sale of entire land was repelled. The encroachment was found on the land of the plaintiff and the same was ordered to be removed. The findings were affirmed in appeal.

Learned counsel for the appellant has relied upon Full Bench authority of this Court titled as Bhartu v. Ram Sarup, 1981 PLJ 204 and it has been pressed that the sale of particular khasra no. shall deem to be share in the khewat.

After going through the findings of the present case, I am of the view that the said ruling is distinguishable from the facts of the present case. Here a specific khasra no. measuring 10 marla was sold. It was found that the present appellant -defendant has encroached upon the land which is out of khasra number in dispute.

Since a particular khasra no. was purchased, it did not give any right

to contesting defendant to encroach upon the other land which is in possession of the plaintiff. These are the findings of facts recorded by the two Courts below. No question of law much less the substantial question of law arises. Hence, the findings cannot be interfered in the regular second appeal.

Appeal is accordingly dismissed.

In view of disposal of the appeal, all the pending applications also stand disposed of.

11.09.2015

gk

(Kuldip Singh)
Judge