

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1036 of 2012 (O&M)

Date of Decision: December 11, 2015

Kirpal Singh

...Appellant

Versus

Smadh Baba Desu of Village Thakar

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.G.S.Punia, Senior Advocate with
Ms.Harbir Kaur, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.2754-C & 2755-C of 2012

For the reasons mentioned in the applications, which are supported by affidavits, delay of 151 days in refileing and 24 days in filing the appeal is condoned.

C.Ms stand disposed of.

R.S.A.No.1036 of 2012

The appellant-defendant is aggrieved of the concurrent findings of both the Courts below, whereby the suit for possession in respect of suit land, has been decreed.

Mr.G.S.Punia, learned Senior Advocate assisted by Ms.Harbir Kaur Advocate, appearing on behalf of the appellant-defendant submits that both the Courts below have committed illegality and perversity in not noticing the fact that the respondent-plaintiff did not have locus-standi to file the suit. Even the alleged dispossession has also not been proved on

record. The report of the Local Commissioner is not in accordance with the

High Court Rules and Regulations and, therefore, the suit was liable to be dismissed.

I have heard the learned counsel for the appellant and appraised the paper book.

The respondent-plaintiff in support of his case, examined PW-3 Baljit Singh, Halqa Kanungo, who was appointed as Local Commissioner and proved on record the notice, presence sheet and his report Ex.PW3/C, much less site plan Ex.PW3/D. He has also referred to Jamabandi Ex.PA and Akshajra Ex.PB.

The suit for possession is based upon the ownership. The case set up by the defendant has not been proved in accordance with law inasmuch as that DW-1 Amarjit Singh in the examination-in-chief deposed that as per the agreement Ex.D2 dated 27.3.1999, appellant-defendant Kirpal Singh became owner in possession of the suit property, however, he deposed that the suit property did not bear any khasra number, but in cross-examination he submitted that he has not seen any document of ownership of Kirpal Singh, thus, plea of alleged ownership set up by the appellant-defendant was not proved. The Courts below, on the basis of the documentary evidence, found that the appellant-defendant is in illegal possession of the suit property.

Keeping in view of the aforementioned facts and circumstances, I do not intend to differ with the findings rendered by both the Courts below as the same are based on documentary evidence.

Accordingly, the appeal is dismissed.

December 11, 2015
ramesh

(AMIT RAWAL)
JUDGE