

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1177 of 2012 (O&M)
Date of Decision.11.09.2015

Des Raj and another

.....Appellants

Versus

Kulbhushan and others

.....Respondents

Present: Mr. Balbir Singh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The plaintiffs who filed the suit for relief of injunction in respect of property of 60 kanals 1 marla of land comprised in Khasra No.15088 and described as sitaute with boundaries of Dr. Ambedkar Park, Guru Ravi Dass Mandir and other prominent places was dismissed. The plaintiffs' contention was that they had been in possession of property well over 50 to 60 years and their possession must be protected. The plaintiffs had claimed that the suit was being filed in representative capacity against several persons whose names were appended along with the plaint.

2. The defendants' contention was that in respect of the very same property, there had been several transactions of purchase from the year 1942 to 1950 and the allotments had been made by the revenue authorities in respect of the property and in the revenue records also, the properties stood mutated in the names of the

defendants as early as in the year 1963-64 and their names entered in the jamabandi. In the defence, the defendants referred to several transactions between the same parties and there had been litigations in Court. There was one suit filed by the defendants against the Municipal Corporation that it attempted to interfere with the rights of ownership and possession and that case was brought upto the High Court in RSA No.1508 of 1978. The defendants' title to the property was reported to have been upheld. It was also the contention of the defendants for which a document had been filed in Court as Ex.P6 that the plaintiffs had formed themselves into members of the Society and a suit had been instituted for injunction in the name of Dr. Amedkar Society against the defendants and the suit was dismissed on 27.11.2001. That decision had become final. There was yet another suit, which the defendants had claimed, was filed against some of the plaintiffs and that suit was decreed on 22.07.1989. All these references to suit and the documents have been referred by the trial Court and it found that the plaintiffs who had claimed themselves to be in possession had not established any right or possession and the rights of parties already stood decided in earlier decisions. The decision was affirmed in the appeal.

3. The counsel for the appellants would only argue that the sale deeds on the basis of which the defendants were claiming right to the property have not been filed into Court and the trial Court itself has recorded the said fact that the defendants had not filed their own documents of title and they were only relying on municipal records and the mutations stood in the name of the defendants. The trial Court itself had observed that the revenue entries or mutation will not

constitute documents of title and they could only be evidence of title to the property. In this case, it does not merely stop with mutation entries, there have been litigations between the parties and there have been adjudication affirmed the right in the property to the defendants. I asked the counsel about the reference to several judgments already said to have been brought about between the parties and the outcome of the decisions which are brought against the plaintiffs and how it is possible for the plaintiff to lay claim to the property in spite of such decisions. The counsel will have no answer and referred to some photographs filed at the trial Court and reiterate the argument which was already made that the defendants had not produced any document of title. The matter has stood decided on a good consideration of all the relevant facts and I find that the present argument made without reference to any of the previous proceedings is grossly unfair.

4. I find no merit in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 11, 2015
Pankaj*