

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

RSA No. 3196 of 2012 (O&M)

Date of decision : 20.8.2015

Krishan Lal and others

... Appellants

versus

Rai Singh and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. C. M. Munjal, Advocate, for the appellants.

Rajesh Bindal, J.

Defendant nos. 2, 4 and 5 have challenged the judgment and decree of the learned Lower Appellate Court whereby that of the trial court was reversed and the suit for permanent injunction filed by the plaintiff/respondent no.1, was decreed.

In the case in hand, the plaintiff filed the suit for permanent injunction with the plea that he along with his brothers purchased 8 kanals land vide sale-deed dated 21.4.1992 from Beenja Ram and 8 kanals from Balbir Singh vide sale-deed dated 20.7.1992. Mutations on the basis of aforesaid sale-deeds was also sanctioned in his favour. Since then, he is occupying the suit land. Possession of the plaintiff is duly established by the entries in the revenue record. Defendant nos. 3 to 5 challenged the validity of the aforesaid sale-deeds. Learned Additional District Judge, Ferozepur, vide judgment dated 7.9.2000, held that an area measuring 11 kanals has been sold in excess by Beenja Ram out of the suit land and passed a decree for possession. Defendant nos. 1 and 2, who are fathers of defendant nos. 3 to 5, forcibly tried to occupy the suit land by dispossessing the plaintiff, despite the fact that they have no right to do so. The defendants have no right to interfere in the possession of the plaintiff, without recourse of law. The plaintiff filed the suit, which was dismissed. However, in appeal filed by him, the suit was decreed by the learned Lower Appellate Court.

It is admitted case of the parties that they are co-sharers in large piece of land including the suit land. The defendants denied that the plaintiff is in exclusive possession over 16 kanals of land. The plaintiff claimed himself to be in exclusive possession over specific khasra numbers falling in suit land. To show his possession, he has proved on record, Ex. P1 to Ex. P4. Ex. P1 is the jamabandi for the year 1998-99 in which he has been recorded to be in exclusive possession in joint share with other co-sharers. In khasra girdawari, Ex.P2 also, he has been recorded in exclusive possession of the land in question. In the judgment, Ex. P3, the defendants have also admitted the possession of the plaintiff over the suit land.

The learned Lower Appellate Court while decreeing the suit of the plaintiff had restrained the defendants from illegally and forcibly dispossessing the plaintiff from the suit land otherwise in due course of law by observing that he is in exclusive possession of the suit land, though his possession may be in excess of his share but none the less the defendants cannot forcibly acquire the said possession and asked them to initiate proceedings for partition. Till then, the plaintiff was held entitled to injunction.

For the reasons mentioned above, I do not find that the findings recorded by the learned Lower Appellate Court are perverse. No substantial question of law arises. The appeal is accordingly dismissed.

20.8.2015
vs

(Rajesh Bindal)
Judge