

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

**RSA No.4442 of 2012 (O&M)
Date of decision: 07.09.2015**

Rama Nand and others

... Appellants

Vs.

Sh. Kishan Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Pritam Saini, Advocate
for the appellants.

None for the respondents.

AMIT RAWAL J. (Oral)

Learned counsel for the appellant-plaintiffs, at the outset, confines his prayer for grant of permanent injunction, as LR's of Shadi Ram, predecessor-in-interest of the appellant/plaintiffs, have been in continuous possession of the suit property since 1960 and jamabandis to this effect also reflect the same. He further submits that the Court ought to have restrained defendant No.1 from forcibly interfering into the peaceful possession, except in due course of law. On instructions from his clients, claim qua declaration is not pressed.

Despite service, there is no representation on behalf of the respondents.

I have heard the learned counsel for the appellant-

plaintiffs, who are LR's of Shadi Ram.

The LR's, of Shadi Ram, successor in interest, have disputed the partition proceedings initiated by Kishan Chand. During such proceeding, it was disclosed that Shadi Ram was in possession of certain area and after culmination of partition proceedings, borrower alleged to have shifted to some other area, than the existing one. Injunction has been declined on the ground that Shadi Ram and his LR's had not challenged the partition proceedings.

I am afraid that the aforementioned finding is not in consonance with the law laid down by the Hon'ble Supreme Court in **Rame Gowda (D) by LR's vs. Mr. Varadappa Naidu (D) by LR's and another 2004(1) SCC 769**, wherein, it has been held that a person, who is in settled possession, cannot be dispossessed except in due course of law. Since the appellants and their predecessor in interest, are in possession, they cannot be dispossessed, as per revenue record, except in due course of law.

Thus, in my view, following substantial question of law has arisen:-

“Whether the appellant-plaintiffs, who are in possession can be dispossessed, except in due course of law ?”

In view of what has been observed above, aforementioned question of law is answered in favour of the appellants and against the respondent-defendants. In essence, the impugned judgments and decrees are set aside to the extent that suit

of the appellant-plaintiffs qua permanent injunction is decreed and the respondent-defendants are restrained from forcibly dispossessing the appellant-plaintiffs, much less, to cause any interference into peaceful possession in the suit land, except in due course of law.

The appeal stands allowed.

Decree sheet be prepared accordingly.

(AMIT RAWAL)
JUDGE

September 07, 2015
savita