

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 464 of 2012 (O&M)
Date of decision: 3.8.2015

Missar Lal @ Mishar Chand and others

.. Appellants

v.

Gajjan Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. A. S. Manaise, Advocate for the appellants.

...

Rajesh Bindal J.

The defendants are before this court against concurrent findings of fact recorded by both the courts below, whereby the suit filed by respondent No. 1-plaintiff was partly decreed.

In the case in hand, respondent No. 1-plaintiff filed the suit for permanent injunction restraining the defendants from encroaching the land measuring 5 kanals and 16 marlas comprised in khewat No. 83, khatoni Nos. 140, 142, Rect. No. 20, Killa Nos. 6/1 (1-4) and 5 (4-12), situated in the revenue estate of village Hardochhani H.B. No. 163, Tehsil and District Gurdaspur. The trial court having found that the plaintiff was in possession of 1 kanal and 4 marlas bearing Khasra No. 20//6/1 decreed the suit to that extent. However, the suit pertaining to other khasra number was dismissed. In appeal filed by the appellants, the decree of the trial court was partly modified while observing that the defendants are in possession of vacant land adjoining to the suit land, where Atta Chakki had been installed. Rest of the land was being used for tethering cattles or staking Ruri. Merely because on the open piece of land, certain residents had started tethering

their cattles or staking Ruri, the same will not amount to dislodging the possession of the recorded owner of the property, as the possession of open land goes with the ownership. The learned lower appellate court has already given partial relief to the appellants, where it found that Atta Chakki had been installed on certain portion. The findings cannot be said to be perverse.

No substantial question of law arises in the present appeal. Accordingly, the same is dismissed.

(Rajesh Bindal)
Judge

3.8.2015
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