

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

1. RSA No.5160 of 2012 (O&M)
Date of decision : 26.08.2015

Surinder Mohan & ors. ...Appellants

Versus

Prabhjot Singh & ors. ...Respondents

2. RSA No.2311 of 2014 (O&M)
Date of decision : 26.08.2015

Surinder Mohan & ors. ...Appellants

Versus

Taranjit Kaur & ors. ...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. Arun Jain, Sr. Advocate with
Mr. Kushagra Mahajan, Advocate for appellants
(in both appeals)

Mr. Chetan Mittal, Sr. Advocate with
Mr. Saurabh Kapoor, Advocate &
Mr. Varun Issar, Advocate for the respondent No.5.
For respondent No.1 in RSA No.2311 of 2014)

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two Regular Second Appeals i.e. RSA No.5160 of 2012, titled as Surinder Mohan & ors. Vs. Prabhjot Singh & ors. and RSA No.2311 of 2014, titled as Surinder Mohan & ors. Vs. Taranjit Kaur & ors.

Surinder Mohan and others had filed the suit bearing No.10-T dated 26.08.1996 for declaration and permanent injunction titled as Harjit Singh and others Vs. Prabhjot Singh and others whereas Taranjit Kaur had filed Civil Suit bearing No.11-T of 26.08.1996 titled as Taranjit Kaur and another Vs. Kiraninder Singh and others for declaration and permanent injunction.

Civil Suit bearing No.10-T was filed for claiming declaration and injunction vis-a-vis the ownership on the basis of the sale deed dated 27.07.1996 (Ex.P2), whereby, plaintiff therein, had allegedly purchased the land measuring 300 square yards from Kiraninder Singh and LRs of Prem Kaur, whereas Civil Suit bearing No.11-T dated 26.08.1996 had been filed claiming declaration vis-a-vis the ownership on the basis of gift deed dated 21.02.1972, (Ex.P5) in respect of land measuring 444-4/9 square yards executed by Hajura Singh in favour of Davinder Pal Singh.

It is a matter of record that plaintiffs in the Civil Suit bearing No.11-T are the successor-in-interest of Davinder Pal Singh. The Civil Suit bearing No.10-T was dismissed by the trial Court vide judgment and decree and appeal filed against the same met with the same fate and the plaintiffs are in Regular Second Appeal No.5160 of 2012, whereas Civil Suit No.11-T had been dismissed by the trial Court but appeal filed against the same at the behest of defendants, therein, was dismissed and defendants (therein) had filed RSA bearing No.2311 of 2014.

The facts preceding to the institution of the aforementioned suits would reveal that Kiraninder Pal Singh and Prem Kaur were owner of land measuring 5705 square yards and by virtue of the sale deed dated

07.05.1968 sold the same to Hajura Singh. It is a matter of record that in the year 1969 i.e. on 24.10.1969, Harpal Singh exchanged 206 square yards with Sarla Chopra who alleged to have purchased property measuring 192 square yards from Kiran Inder Singh. Harpal Singh in the year 1969-70, sold the land measuring 2709 square yards vide various sale deeds and was left with ownership of 3010 square yards.

It is borne out from the facts, adumbrated, in the judgment of the trial Court that Harpal Singh on 29.10.1969 (vide Ex.P4) sold the land measuring 340 square yards to Hajura Singh. Hajura Singh in the year 1972 i.e. on 21.02.1972 gifted the land measuring 444-4/9 square yards (gift deed Ex.P5) in favour of son Davinder Pal Singh. In the year 1996 i.e. on 23.12.1996, Hazura Singh sold land measuring 3161 square yards to M/s S.S. Builders, which is not party to the lis, in the aforementioned suits.

Since both parties were deriving to interest from the property owned by Kiran Inder Pal Singh and LRs of Prem Kaur, the dispute arose with regard to the interference in their respective possession. In view of aforementioned facts, suits ibid came to be filed.

Mr. Arun Jain, learned Senior Counsel submits that land measuring 300 square yards bearing khasra No.4574/2746/104 was not part of the sale deed dated 07.05.1968 Ex.P3 and, therefore, the respondent (herein) cannot interfere in their possession but the fact remains that sale deed described the nature of the property as Gair Mumkin Dakkhana Wa-Makan, whereas gift deed measuring 444-4/9 square yards was in respect of vacant land. Thus, as per the gift deed and sale deed, identification of the property was different though there should be any action for interference by

the respective parties to the lis, but yet, dispute arose and resultantly they knocked the door of this Court. Be that as it may. The fact remains that before institution of the suit seeking injunction, parties to the lis had not got demarcation of the land for claiming respective relief.

In my view, since parties according to the averments are in settled possession of the respective areas, both are entitled to injunction against each other.

In view of aforementioned observations, following substantial question of law would arise for determination:-

1. As to whether the parties to the lis who are in settled possession and are entitled to seek injunction against each other or not?

Since properties as noticed above have not been demarcated, I am of the view that both plaintiffs in respect of respective suits Nos.10-T and 11-T are entitled to injunction vis-a-vis their property described in the sale deed dated 27.07.1996 Ex.P2 and the gift deed dated 21.02.1972 Ex.P5 and shall not interfere in each other peaceful possession themselves or their agents or servants etc.

Parties shall be entitled to seek declaration only by seeking the remedy elsewhere in accordance with law.

With the aforementioned observations, the both Regular Second Appeals stands disposed of.

26.08.2015

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**(AMIT RAWAL)
JUDGE**