

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Regular Second Appeal No. 2373 of 2013 (O&M)

DATE OF DECISION : January 21, 2015

Gobind Singh

.....APPELLANT(S)

VERSUS

Smt. Dano Bai

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sandeep Jasuja, Advocate, for the appellant.
Mr. S.K. Bawa, Advocate, for the respondent.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the digest? YES/NO

...

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff was dismissed by the trial Court vide judgment and decree dated 24.11.2011. Appeal preferred against the said judgment was partly accepted and defendant was restrained from causing any interference in the possession of the plaintiff, except in due course of law. This is

now, defendant is before this Court in this Regular Second

Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

It would be expedient to point out at this stage itself that by virtue of the decree dated 31.01.2013 rendered by the 1st Appellate Court, defendant has only been enjoined from dispossessing the plaintiff, except in due course of law. Her claim that she had inherited the occupancy rights qua the suit property, pursuant to a writing executed by her father on 15.06.1995, was rejected by both the courts and plaintiff has not chosen to file any appeal against the said decree before this Court. Thus, the short question to be determined is as to whether appellate Court having found plaintiff to be in actual physical possession could enjoin the defendant from causing any interference in her possession, except in due course of law ? Suffice it to say, plaintiff proved that she, indeed, was in actual physical possession of the suit property for the last more than 25 years. Her claim was also corroborated by Shri Azad (PW-2). So much so, defendant-Gobind Singh also conceded in his cross examination that plaintiff was in possession of the suit property, though illegally, for the last 25 years. Likewise, Noor Mohammad (DW-2) also testified in his cross examination that he knew Dano Bai and she was living in the village for the past 20 years and was in cultivating possession of the suit property. That being so, the defendant was rightly restrained from interfering in the possession of the plaintiff, except in due course of law.

Learned counsel for the appellant could not point out

or show as to how the conclusion arrived at by the 1st Appellate Court in this regard was either contrary to the position on record or suffers from any material irregularity.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is, accordingly, dismissed.

JANUARY 21, 2015
Kang

(ARUN PALLI)
JUDGE