

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

**Regular Second Appeal No.2742 of 2013 (O&M)
Date of Decision: September 28, 2015.**

Anil Kumar and others

.....APPELLANT(s).

VERSUS

Tara Chand and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.R. Gupta, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Plaintiff Anant Ram (since deceased) along with Amit Kumar, Sumit Kumar, Ravinder Kumar and appellant Anil Kumar filed suit seeking the relief of declaration that the plaintiffs and proforma defendants are owners in possession of 7 knalas 19 marlas of land comprised in khasra No.275(min) situated in revenue estate of village Julana, District Jind and that the sale deed No.1846 registered on 21.02.2006 executed by defendants No.6 to 13 in favour of defendants No.14 and 15 are illegal, null and void and not binding on the rights of the plaintiffs. The relief of permanent injunction to restrain the defendants from interfering in peaceful possession of the plaintiffs over the suit land or demolishing any part of the building constructed thereon, was also sought.

2. The suit was partly decreed by Additional Civil Judge (Senior

Division), Jind and the defendants were restrained from dispossessing the plaintiffs from 3 kanals 9 marlas out of khasra No.275(min) except in due course of law.

3. Not satisfied, defendants No.1 to 13 and the plaintiffs filed appeals, which were dismissed by Additional District Judge, Jind.

4. Against the concurrent judgments of the Courts below, Sumit Kumar, Anil Kumar plaintiffs and Ravinder Kumar, who was impleaded as legal heirs of Anant Ram and Murti Devi, legal heir of Vijay Kumar, one of legal heir of Anant Ram have filed this regular second appeal.

5. Before proceeding further, it will be relevant to note that Ravinder Kumar, appellant No.2 has no right to file the appeal in his individual capacity. He was not a party in individual capacity in the plaint and was only impleaded as legal heir of Anant Ram. This appeal has been filed in his individual capacity which he lacks.

6. The plaintiffs claimed title and possession over the land measuring 7 kanals 19 marlas comprised in khasra No.275(min) situated in revenue estate of village Julana, District Jind. As per the plaintiffs, Raghunath Dass, father of plaintiff Anant Ram had purchased the suit land and constructed an enclosure and some other buildings over it. In the consolidation proceedings, this enclosure of plaintiffs was reserved and is now comprised in khasra No.275 measuring 8 kanals 11 marlas. However, due to mistake of consolidation authorities, this khasra No.275 was shown to be owned by Chander Singh, Hari Singh and Tara Chand sons of Chandgi and Dhan Kaur widow of Chandgi. Despite the mistake in the revenue

record, plaintiff No.1 Anant Ram continued to be in exclusive owner of the

suit land till the year 2004 when vide a family arrangement, he transferred this land in the name of plaintiffs No.2 to 5 and proforma defendant No.16 Ranjana Devi. Out of the suit land, land measuring 12 marlas was sold to Ram Kishan leaving 7 kanals 19 marlas land with plaintiff Anant Ram. The plaintiff also took the alternate plea that in the event of their title being not established, they have become owner of the suit land by way of adverse possession.

7. Learned Additional Civil Judge (Senior Division) on the basis of report of the local commissioner and the evidence on record, observed that the plaintiffs were in unauthorized possession of land measuring 3 kanals 9 marlas and the land measuring 5 kanals 2 marlas was lying vacant and allowed the relief of injunction to that extent.

8. The first appellate Court upheld the judgment of Additional Civil Judge (Senior Division), Jind.

9. Both the Courts on the basis of revenue record i.e. entries in the jamabandies for the year 1962 onwards reached the conclusion that the matter regarding ownership of the land bearing khasra No.275 is pending before the Director Consolidation as per the order passed in Civil Writ Petition No.21469 of 2008 titled as 'Tara Chand and others Vs. Director Consolidation Haryana and others'. On the question of possession, the finding of Additional Civil Judge was affirmed.

10. The concurrent findings of the Courts below regarding possession of the plaintiffs over the land measuring 3 kanals 9 marlas are based on the report of the local commissioner and the other evidence on

record. Both the Courts below reached the conclusion that remaining area of

land was lying vacant.

11. Learned counsel for the appellants during the course of arguments has not been able to refer to any evidence to the contrary produced before the lower Court on the basis of which contrary view could be taken.

12. On perusal of the paper book and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

13. No substantial question of law requiring determination arises in this appeal, which has no merits.

14. Dismissed.

September 28, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE