

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

Regular Second Appeal No.2890 of 2013 (O&M)

Date of decision: **17.11.2015**

Aash Mohd.

.... Appellant

versus

Haryana State through District Collector Mewat at Nuh and others.

... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Sarfraj Hussain, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ?No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J.

1. The plaintiff is the appellant before this court. The plaintiff's suit for injunction had been dismissed. The plaintiff's contention was that the property had been in his possession for the last 70 years. He would contend that he purchased a borewell on 17.09.1999 from one Islam for ₹ 12,500/- and he had also sunk the same. There was a residential house in the property and the defendants, who were the powerful government functionaries, were attempting to disturb the plaintiff's possession.

2. The defendants' contention was that the suit was itself not competent. The gram panchayat had already filed a petition for

eviction under the Public Premises Act (for short, PP Act) and an order of eviction had also been passed. When it was put in execution, the plaintiff had filed a suit suppressing the adverse order of ejectment as passed under the PP Act. The plaintiff had described the property to be situate with all the agricultural lands in all sides but would contend that the property did not have any khasra numbers. The defendants' contention was that it was a “makmooja mahekma janglat” and it vested with the State. No part of the property belonged to him. If the plaintiff's contention were that the property was comprised in Khasra No.76/2, the defendants would plead that it was in respect of very same khasra number that an order of eviction had been passed. The defendants were, therefore, trying to contend that there was no lawful possession in respect of which the plaintiff could claim injunction. The trial court dismissed it and the appellate court confirmed the same.

3. The contention in appeal is that if it was a property which was admittedly in possession of the plaintiff, the defendants should only be directed to take action in accordance with law and cannot unlawfully dispossess him. I find the contention to be wholly without merit. The suit itself came to be instituted when there was an order of eviction passed against the plaintiff. The order passed could not be subject of an adjudication afresh through a suit by questioning the order of ejectment. The contention of the plaintiff

that the defendants should only take action in accordance with law will have meaning only in a situation where the defendants were attempting to eject him from the premises without recourse to law. An order passed under the PP Act is an instrument that was put in place to secure ejectment in accordance with law.

4. The suit itself was mala fide and dismissed correctly by both the courts below. I find no reason to interfere with the same. The second appeal is without merit and dismissed as such.

(K.KANNAN)
JUDGE

17.11.2015

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