

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3151 of 2013 (O&M)

Date of Decision: 20.04.2015

Pardeep Kumar and another

..... Appellants

Versus

Sawaranjit Kumar and another

..... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Balbir Singh Jaswal, Advocate,
for the appellants.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

CM No.8401-C of 2013

For the reasons stated in the application, the same is allowed and the delay of 8 days in refiling the appeal is condoned.

RSA No.3151 of 2013 (O&M)

This is defendants' second appeal. It is not disputed that the plaintiffs were in possession of corpus land. It is also not seriously disputed that the land originally belongs to Government and is public property. The simpliciter suit brought for permanent injunction restraining the defendants from interfering in plaintiffs peaceful possession of the suit corpus, both the Courts below have decreed it against the defendants/appellants by issuance of a permanent injunction. If the defendants in the present appeal are aggrieved by the injunction order or wish to claim re-possession of the corpus they were and are free to litigate against their plaintiff brothers

Sawaranjit Kumar and Hardip Kumar, which they have not. They have so far as can be seen succumbed to the superior possessory rights to corpus land of the plaintiffs-respondents, remaining as they are in the position of defendants. The Government can always assert its right, title and interest in the land as true owner by recourse to due process of law. When State is not made party to the suit it will not remain bound by the decree, as is the legal position.

In the light of the facts and circumstances obtaining as at present on site, no question of law arises much less a substantial one warranting interference in the limited jurisdiction provided by Section 100 of the Code of Civil Procedure in a suit for maintenance of the peaceful status quo with respect to the suit property.

Resultantly, the appeal fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2015
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