

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3 of 2015(O&M)
Date of decision :February 4 , 2015

Punjab State Electricity Board Now Punjab State Power Corporation Ltd.and others

..... Appellants

Versus

M/s Ganpati Estates

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashok Aggarwal, Senior Advocate with
Mr. Vinod Bhardwaj, Advocate
for the appellants.

Mr. Gaurav Chopra, Advocate
for the respondent-caveator

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

This Regular Second Appeal is directed at the instance of the appellants-defendants against the judgment and decree of the trial court whereby the suit for possession of the land measuring 39 Kanals 5 Marlas has been decreed and the appeal filed against the same was also dismissed.

Learned counsel appearing on behalf of the appellants submits that the courts below have committed illegality and perversity in decreeing the suit as well as dismissing the appeal,

in as much as that the appellants-defendants have been found to be in open, notorious possession of the property in dispute since 1978 wherein they have set up a 33 KV Grid Substation.

I am afraid the aforementioned argument of the learned counsel for the appellants-defendants is devoid of merits as by taking up the plea of adverse possession the ownership and title of the respondent-plaintiff is deemed to be admitted. In support of the averments the respondent-plaintiff has stated that property measuring 480 Kanals 19 Marlas and 24 Bighas situated in two different villages was purchased in court auction conducted by the official liquidator on 5.10.2004. Thereafter the demarcation of the property was conducted. It was found that the respondent-plaintiff is in possession of an area measuring 39 Kanals 5 Marlas and accordingly the civil suit was filed in the year 2006. There was no delay on the part of the respondent-plaintiff to seek remedy in accordance with law.

The appellant-defendant has failed to prove the ingredients of adverse possession, much less “Animous possidendi” as enunciated under Article 65 of the Limitation Act.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence in favour of the respondent-plaintiff by holding that the appellant-defendant has failed to prove the actual date by which the possession is alleged to have become adverse. I do not find any illegality or perversity in the aforementioned orders of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 4, 2015
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