

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

RSA No.1080 of 2014 (O&M)

Date of decision : 10.12.2015

Gurmej Singh

...Appellant

Versus

Harbans Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Vivek Salathia, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-defendant is aggrieved of the concurrent findings of fact, whereby suit filed by the respondent-plaintiff vis-a-vis the relief of injunction injuncting the appellant-defendant from interfering into the peaceful possession of the plaintiff or dispossession from the suit land forcibly and illegally except in due course of law, has been decreed.

Mr. Vivek Salathia, learned counsel appearing on behalf of appellant submits that possession of the respondent-plaintiff has been held to be unauthorised and liberty has been granted to the plaintiff to seek the possession in accordance with law. However, the aforementioned decree are being misread by the Revenue Court whereby appeal filed against the order

for correction of the khasra girdwari is stated to be pending and the respondent-plaintiff is taking the advantage of the same. He further submits that lower Appellate Court while dismissing the appeal has held that respondent-plaintiff had been in possession and the said expression is being misconstrued to be legal possession. Thus there is illegality and perversity in the impugned judgment and decree.

I have heard learned counsel for the appellant-defendant and appraised the paper book.

The trial Court had categorically come to the conclusion that respondent-plaintiff were and are in long and settled possession but did not gave any finding that possession was authorised or illegal. The observation given by the lower Appellate Court vis-a-vis the possession of the respondent should not be construed to be legal possession. Once the liberty has been given to the appellant-defendant to seek the possession in accordance with law, natural consequences would reveal that the respondent-plaintiff is not the owner but is in unauthorised possession.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by the Courts below.

Accordingly, appeal is dismissed.

It is made clear that Revenue Court shall not be influenced with the findings rendered by the both the Courts below and shall decide the controversy independent and uninfluenced with the findings rendered by both the Courts below & by this Court also.

10.12.2015

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**(AMIT RAWAL)
JUDGE**