

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4252 of 2015

Date of decision : December 9, 2015

Smt. Geeta Devi and others

..... Appellants

Versus

Malkhan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Jain, Advocate
for the appellants.

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).

The appellants-defendants are aggrieved of the judgment and decree of the lower appellate court whereby the suit for permanent injunction seeking the restraint order against the appellants-defendants has been decreed.

Learned counsel for the appellants submits that the lower appellate court has committed illegality and perversity in misreading the Ex.P-4 and Ex.D-10. The trial court on the basis of oral and documentary evidence found that the respondents-plaintiffs did not have any cause of action to seek injunction and dismissed the suit as khasra numbers mentioned in the suit do not tally with Ex.D-10 and particularly, the lower appellate court has misread the same.

Neither legal representatives of Jai Dei nor the Will sought to be placed on record through evidence without there being any pleadings has been proved, thus, a substantial question of law arise for determination by this Court.

I have heard learned counsel appearing on behalf of the appellants and appraised the paper book.

The plaintiffs proved on record Ex.P-1 to P-6, jamabandi for the year 2003-04, copy of sale deed whereby Jai Dei has succeeded in a suit for possession showing statement of the counsel suffered on 22.7.2011 whereas the documentary evidence relied upon by the defendants had been taken into evidence i.e. Ex.D-3 to D-12 which was seriously objected to. In essence, the objection has not been removed by examining the witnesses from the concerned department to prove other documents whereas the documents tendered by the respondents-plaintiffs were not objected to and therefore Ex.D-3 to D-12 cannot be looked into, thus, the plea of learned counsel for the appellants that the lower appellate court has misread Ex.D-10 is not sustainable. Much reliance has been placed to the documentary evidence i.e. Ex.D-3 to D-12 tendered on behalf of the appellants-defendants to show that they are in possession of the property and had purchased the same through the erstwhile tenants. This court cannot remain unmindful of the fact that the suit is for permanent injunction and not for seeking declaration of the title. Even in the proceedings initiated at the instance of Jai Dei it has been found that the property was in possession of the tenants. The plaintiffs are none else but tenants of Jai Dei. The plaintiffs are

also claiming possession on the basis of documentary evidence.

In view of the above, I am of the view that the lower appellate court being the last court of fact and law enjoined upon an obligation to examine all the documents and found that there was force in the case of the respondents-plaintiffs.

I do not intend to differ with the finding rendered by the lower appellate court which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

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

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 9, 2015
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