

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 165 of 2014(O&M)
Date of decision : December 17, 2015

Tarlochan Singh and another

..... Appellants

Versus

Balbir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjay Gupta, 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 in Regular Second Appeal against the concurrent finding of fact whereby the suit for possession with regard to the land measuring 1 Kanal 2 Marlas and 3 ½ sarsahi as described in the plaint has been decreed and defendant Nos.1 to 3 have been restrained from raising any further construction on the suit property.

Learned counsel appearing on behalf of the appellants submits that previous to the filing of the present suit at the instance of the respondents-plaintiffs, appellants-defendants had filed a suit for permanent injunction as owner in possession of the land situated in khasra No.7//30 and 7//31 and in the aforementioned proceedings, the Kanungo was appointed as a Local Commissioner,

who submitted a report. The suit was decreed. In essence, the respondents-plaintiffs were restrained from interfering in the possession viz-a-viz the aforementioned khasra numbers and appeal filed by the respondents-plaintiffs was dismissed. However, in the said report the Kanungo had observed that the appellants-defendants had encroached upon total land measuring 1 Kanal 2 Marlas in Khasra No.7//9 and 7//10, for which the suit for possession has been filed. In the present suit, the respondents-plaintiffs did not get the property demarcate but only relied upon the previous report. Though, the Kanungo has attempted to prove its report dated 22.11.2001 which has been brought on record through his testimony of the witnesses but in the cross examination he has spilled the beans, by saying that he did not measure the property by putting the points or given notice to the father of the appellants-defendants, thus, these facts have not been noticed by the courts below, which has resulted into illegality and perversity.

I have heard learned counsel for the appellants and appraised the paper book.

The appellants-defendants ought to have cross-examined the Kanungo in those proceedings viz-a-viz alleged encroachment of khasra Nos. 7//9 and 7//10 i.e.the suit property of which the possession is being sought. The property in dispute is an agricultural land, thus, placing of pucca points were not necessary as the Kanungo while inspecting the property in dispute had taken into consideration the revenue record and Ak shijra.

Keeping in view the aforementioned facts, I do not

intend to differ with the finding rendered by both the courts below 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 17, 2015
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