

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

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Regular Second Appeal No.274 of 2014 (O&M)

Date of Decision: December 02, 2015

Jai Parkash and others

...Appellants

Versus

Jagan Nath and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Jagjot Singh, Advocate
for Mr. Kunal Dawar, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Faridabad, dated 10.01.2012, whereby the suit of the respondents-plaintiffs seeking permanent injunction restraining the appellants-defendants from interfering in their peaceful possession over the land measuring 25 kanals 14 marlas, as detailed in the suit, situated within the revenue estate of village Panhera Kalan, Tehsil Ballabgarh, District Faridabad, stands decreed, appeal against which preferred by the appellants-defendants has been dismissed by the Additional District Judge, Faridabad, on 25.07.2013.

2. It is the contention of learned counsel for the appellants that the entry in the revenue record is without notice to the co-sharers and, therefore, the findings recorded which are based upon the revenue entries showing the respondents-plaintiffs in possession of the land, cannot be sustained and deserve to be set aside. His further contention is that since the Courts below have given a finding that the appellants-defendants and the respondents-plaintiffs are co-sharers, injunction could not have been granted.

3. On considering the submissions made by learned counsel for the appellants and on going through the impugned judgments with his able assistance, I am unable to accept the same in the light of the fact that as per the revenue record, specially jamabandi Exhibit P-1 for the year 1954-55, where the land is shown to be *gair mumkin charagah*, which shows the possession of all the co-sharers including the parties but subsequently the same has been made cultivable by the respondents-plaintiffs and on the basis of which the Assistant Collector 1st Grade in the year 1976, corrected the khasra girdawari to the effect that the respondents-plaintiffs had cultivated the land and now the land was in their possession. The said correction made in the khasra girdawari was challenged by the appellants-defendants, which was allowed by the Appellate Court on 24.10.1977 and directed the matter to be heard afresh and decided again. During the pendency of the matter before the Assistant Collector 1st Grade, the appellants-defendants chose not to appear before the said authority leading to the dismissal of their application in default for want of prosecution on 19.05.1978. Thereafter the said matter was never pursued, the result thereof is that as per the revenue record, the respondents-plaintiffs are in possession of the property.

4. The findings, thus, recorded by the Courts below with regard to the exclusive possession of the respondents-plaintiffs, cannot be faulted with.

5. As regards the contention of learned counsel for the appellants that the injunction could not be granted against a co-sharer in principle, may appear to be attractive but keeping in view the fact that the respondents-plaintiffs have been able to establish conclusively that they are in exclusive

possession of the disputed land, the injunction as prayed for, has rightly been granted by the Courts below.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM No.638-C of 2014, stands disposed of as infructuous.

December 02, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE