

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

RSA No.2949 of 2014(O&M)
Date of decision: 15.01.2015

Amar Singh and another

...Appellants

Versus

Sunita and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Parminder Singh, 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?

ARUN PALLI J. (Oral)

Suit filed by the plaintiffs was decreed by the trial court vide judgment and decree dated 29.08.2011. Appeal preferred against the said decree failed and was dismissed on 10.02.2014. This is how, defendants are before this court, in this regular second appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In short, in a suit filed by the plaintiffs, they prayed for a decree for possession, claiming that plaintiffs No.1 & 2 were entitled to 2/3rd share each in equal shares and plaintiffs No.3 to 6 were entitled to 1/3rd share each in equal shares of the suit land. And mesne profits w.e.f. 18.12.2009 till the actual delivery of possession after holding that the plaintiffs were owners of the suit property, as depicted in para 2 of the

plaint. It was averred that Lachhman Singh, vide a registered lease deed dated 18.12.1979, had leased out his agricultural land measuring 6 kanal 16 marla i.e. 1/10th share in khewat No.123, kittas 13, total area 67 kanal 16 marla, situated in village Guniana, Tehsil and District Karnal, in favour of the defendants in equal share. Lachhman Singh died on 22.03.1998, and the plaintiffs happened to be his successors-in-interest. Their names appeared in the jamabandi for the year 2004-05. The suit property was leased out by Lachhman Singh for a period of 30 years w.e.f. 18.12.1979 to 18.12.2009. Therefore, the period of lease expired on 18.12.2009. And thereafter, the defendants had no right to remain in possession of the suit land. As despite having requested the defendants to hand over the vacant possession of the suit land, nothing tangible emerged, thus, the suit.

In defence, it was pleaded, inter alia, that Lachhman Singh died on 22.03.1998, but the plaintiffs were not the legal heirs of Badama, father of Lachhman Singh. However, it was admitted that the suit property was leased out for a period of 30 years. However, during the lifetime of Badama, an agreement to sell with respect to the suit property was executed by him in favour of the defendants, it was maintained that after the expiry of the lease deed, Badama would get a sale deed executed in favour of the defendants. Further, as lease deed stood expired, status of the defendants

over the suit property was of tenants holding over and even otherwise, possession of the defendants over the suit property in the alternative was of the prospective vendees. That being so, it was pleaded that the question of handing over the vacant possession of the suit land, did not arise.

Trial court, on a consideration of the matter in issue and evidence on record, found that neither the lease deed that was executed by the parties, nor its duration was disputed by the defendants. Thus, plaintiffs had successfully discharged their onus. Though, defendants had set up a plea that post expiry of period of lease, their status over the suit land was of a tenant and of a prospective vendee, it was concluded that jamabandi for the year 2004-05, revealed that defendants were put in possession of the suit property, pursuant to a pattanama. Meaning thereby, they were in possession of the suit land pursuant to the lease deed dated 18.12.1979. That being so, there was no question of tenancy between the defendants and predecessor-in-interest of the plaintiffs. Defendants failed to lead any evidence to show that they ever paid rent to the predecessor-in-interest of the plaintiffs. No receipt, as regards the payment of rent, to substantiate the plea of tenancy qua the suit property, was produced. Therefore, it was concluded that defendants were never inducted as tenants in the suit property. As regards the agreement to sell, it was observed that no such agreement was

placed on record. Accordingly, it was observed that defendants had set up a false defence, which could not be believed. On the contrary, plaintiffs had proved that Lachhman Singh son of Badama had leased out the suit land to the defendants for a period of 30 years, which stood expired on 18.12.2009. Once that was so, possession of the defendants, on the expiry of the period of lease on 18.12.2009, was wholly unauthorized and unlawful. Resultantly, plaintiffs were held entitled to mesne profits from the said date i.e. 18.12.2009 till actual realization of the suit property @ ₹ 20,000/- per annum. As a result, the suit was decreed.

Being dissatisfied with the decree, defendants preferred an appeal. First appellate court reviewed the matter in issue, evidence on record and on an analysis thereof found itself in concurrence with the view drawn by the trial court and the findings recorded in support thereof. Accordingly, the appeal was dismissed.

I have heard learned counsel for the appellants at length and perused the RSA paper book.

Learned counsel for the appellant simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant

appeal is devoid of merit and is thus, liable to be dismissed for the reasons that are being recorded hereinafter. Concededly, Lachhman Singh i.e. predecessor-in-interest of the plaintiffs, pursuant to a lease deed dated 18.12.1979 (Ex.P1), put the defendants in possession over the suit property for a period of 30 years. Lease period expired on 18.12.2009. As observed by the first appellate court that on the expiry of said period, plaintiffs were entitled to seek possession. And the decisions relied upon by counsel for the defendants-appellants was of no consequence, as defendants had no statutory right to continue in possession of the suit property. Plea of the defendants that after expiry of the period of lease, they acquired the status of tenant holding over and have been paying rent regularly to the plaintiff, also remained unsubstantiated on record. Defendants failed to show that they were tenants over the suit property and ever paid any rent. No evidence in this regard was led by the defendants. Still further, defendants had pleaded an agreement to sell in their favour qua the suit land that was purported to have been entered into between the defendants and Badama i.e. father of Lachhman Singh during the period of lease and thus, claimed themselves to be in possession as prospective vendees. Defendants failed to place on record any such agreement, that was purported to have been executed by the predecessor-in-interest of the plaintiffs. Learned counsel for the appellants could not point out as to

how the conclusions that were concurrently recorded by both the courts below were either contrary to the position on record or suffered from any material illegality.

In the wake of the position, as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is, accordingly, dismissed.

January 15, 2015
Rajan

(Arun Palli)
Judge