

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5769 of 2015(O&M)
Date of decision : November 20, 2015

Sukhdev Singh and another

..... Appellants

Versus

Sat Pal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. D. S. Gurna, 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 permanent injunction filed by the respondent-plaintiff has been decreed.

Learned counsel appearing on behalf of the appellants-defendants submits that the trial court has committed illegality and perversity in not appreciating the revenue record as the respondents-plaintiffs had been found to be in exclusive possession of khasra No.401, whereas according to the documentary evidence the respondents-plaintiffs are in possession of Khasra No. 905/583 min. In this regard, he has drawn attention of this Court to jamabandi for the year 2002-03 as Ex.P-1.

He further submits that the respondents-plaintiffs have to stand on their own legs and he cannot take advantage of the weakness of the appellants-defendants. Therefore, the court ought not to have granted the decree of injunction to remove the wall from point A to D as shown in the pahi restraining the defendants from making any encroachment or interfering in the peaceful user and enjoyment of the plaintiff by obstructing the Parnalas, windows and doors falling in the Gair Mumkin Pahi comprised in Khasra No.400 as shown in the Akhas Latha attached, by raising construction or in any other manner and restraining them by forcibly demolishing the house and boundary wall of the plaintiff comprise in Khasra No. 401.

He further submits that the respondents-plaintiffs along with other co-sharers are not in exclusive possession with other persons, therefore, the suit ex facie was not maintainable.

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

Both the courts below have concurrently found that the respondents-plaintiffs were in exclusive possession. In essence, the suit for permanent injunction against the co-sharer though, this point has not been raised in the written statement, is maintainable, in case the respondents-plaintiffs are able to prove their exclusive possession.

The lower appellate court has extracted the cross-examination of DW1 who admitted that there is house of plaintiff in Khasra No.401 which was constructed 40/42 years ago. Even DW-3 also admitted in the same manner. Rather, it has also been admitted

that the respondents-plaintiffs purchased the land and constructed the house in the year 1970.

In view of the categoric admission, it has been found that the respondents-plaintiffs are in exclusive possession of the property and the appellants-defendants have not been able to dispute the same.

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

November 20 , 2015
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