IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3323 of 2014 (O&M)
Date of Decision: March 24, 2015

Sikra and others

...Appellants

Versus

Izhar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mohammad Arshad, Advocate
for the appellants.

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INDERJIT SINGH, J.

Appellants Sikra, Ali Mohammad, Hajar Khan, Noor Mohammad, Akhtar, Ahmad and Hassan have filed this regular second appeal against Izhar respondent challenging the judgment and decree dated 18.07.2013 passed by learned Civil Judge (Junior Division), Nuh, vide which the suit for permanent injunction filed by the respondent-plaintiff was decreed and judgment and decree dated 16.01.2014 passed by learned Addl. District Judge, Nuh, vide which appeal filed by the appellants-defendants was dismissed.

The case of the plaintiff-respondent is that plaintiff is in actual physical and cultivation possession of the suit land measuring 0 kanal 18 marlas, which he had purchased from previous owners Ghuggan and Kalu vide agreement dated 14.03.2007. The possession of the suit land was delivered to the plaintiff by his vendors. It is also the case of the plaintiff that few years back, said

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Ghuggan tried to dispossess him from the suit land regarding which he filed suit for permanent injunction. In said suit, Ghuggan gave a statement that he will not dispossess the plaintiff from the suit land. Upon this, plaintiff withdrew that suit. It is further case of the plaintiff that defendants are utter strangers and they threatened to dispossess him from the suit land.

On the other hand, defendants denied the averments in the plaint and stated the defendants are in cultivating possession of the suit land since time of their fore-fathers. It is also denied that plaintiff had purchased the suit land.

I have gone through the record and have heard learned counsel for the appellants.

From the record, I find that first of all there are concurrent findings of the Courts below regarding the fact that plaintiff is in possession over the suit land. Learned counsel for the appellants has not shown as to what substantial question of law arises in this present regular second appeal. He argued that the evidence has not been properly appreciated by the Courts below.

From the perusal of the record, especially the impugned judgments passed by learned Civil Judge (Junior Division), Nuh as well as learned Addl. District Judge, Nuh, I find that the plaintiff has relied upon the copy of the jamabandi Ex.P1. As per the findings, Roshan, Kalu, Jan Mohammad and Aash Mohammad were shown in possession of the suit property. Further the property of Kalu was inherited by Ghuggan and he entered into an agreement Ex.PX with

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the plaintiff and put plaintiff in possession of the suit property. The plaintiff also placed on record certified copy of order dated 17.09.2012 in another case filed by plaintiff Izhar against Ghuggan in which he admitted the possession of plaintiff. Ex.P4 is the certified copy of the order dated 17.04.2012. Ex.P2 and P3 are the copies of mutation No.859 and 860 respectively.

On the other hand, defendants placed on record, certified copy of the order dated 29.01.2013 Ex.D1 passed by the Deputy Commissioner, Mewat, Ex.D-2 certified copy of order dated 29.07.2012 passed by AC-Ist Grade, Nuh and photographs Ex.D3 to D8.

The photographs, itself, are not sufficient to prove the possession of the defendants. As per orders Ex.D1 and D2, nowhere the AC-Ist Grade or Deputy Commissioner has held that defendants are in possession over the suit land. Therefore, the documents produced by the defendants do not prove that defendants are in possession of the suit land.

From the above discussion, I find that findings of fact given by both the Courts below are correct, as per law and do not require any interference from this Court. In no way, it can be held that evidence has been misread or the judgments are perverse.

As no substantial question of law arises in the present regular second appeal, therefore, the same is dismissed.

March 24, 2015 **(INDERJIT SINGH)**
Vgulati **JUDGE**

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