

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3509 of 2014 (O&M)
Date of Decision: July 31, 2015

Wazir Singh and others

...Appellants

Versus

Makhan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Jasuja, Advocate
 for the appellants.

INDERJIT SINGH, J.

CM No.8109-C of 2014

For the reasons mentioned in the application, the same is allowed. The delay of 6 days in filing the appeal is condoned.

RSA No.3509 of 2014

Appellants-defendants have filed this regular second appeal against respondent-plaintiff Makhan Singh, challenging the impugned judgment and decree dated 03.05.2012 passed by learned Addl. Civil Judge (Senior Division) Fazilka, vide which the suit of the plaintiff for permanent injunction was decreed and also the judgment and decree dated 14.01.2014 passed by learned Addl. District Judge, Fazilka, vide which the appeal filed by appellants-defendants was dismissed.

The brief facts of the case are that plaintiff-respondent

Makhan Singh filed a suit against Wazir Singh, Hakam Singh, Kehar Singh, Surjit Singh and Mangh Singh, for permanent injunction. It is the case of the plaintiff that he is owner of agricultural land measuring 15 kanals 1 marla as fully described in head note of the plaint and he is in peaceful and continuous cultivating possession of the suit land for the last more than 25 years. Till date, he has not relinquished the possession of the suit land in favour of anybody including the defendants. It is further stated that defendants No.2 and 4 have also filed applications for correction of khasra girdawaris, which are still pending in the Court of Tehsildar-cum-AC IInd Grade, Fazilka.

On the other hand, the case of the defendants is that plaintiff neither ever remained in possession nor is in possession over the suit property at present and has got no concern either with ownership or with the possession of the suit land. It is also stated that defendant Hakam Singh has been coming into possession of land measuring 7 kanals 7 marlas and similarly, Surjit Singh has also been coming into possession of land measuring 7 kanals 14 marlas. It is further stated that plaintiff and defendant No.2 are real brothers and both have come into peaceful possession of their respective land and never cared to know about the entry of khasra girdawari. It was only a year ago, when both defendants No.2 and 4 came to know that khasra girdawari qua the suit land is being recorded in the name of the plaintiff.

After framing the issues and after the parties led evidence, learned Addl. Civil Judge (Senior Division) Fazilka, after going through

the evidence on record, decreed the suit of the plaintiff. Aggrieved from the above-said judgment and decree, an appeal was filed by appellants-defendants, which was also dismissed by learned Addl. District Judge, Fazilka, vide judgment and decree dated 14.01.2014.

Aggrieved from the above-said judgments and decrees, present regular second appeal has been filed by appellants-defendants.

At the time of arguments, learned counsel for the appellants argued that the findings given by the Courts below are not as per evidence and are perverse and liable to be set aside.

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

At the time of arguments, learned counsel for the appellants admitted that plaintiff is shown in possession over the suit land continuously in the revenue record. There is no entry at any stage in the revenue record to show that the defendants are in possession over the land. There is no other document on the record to show that defendants ever remained in possession over the suit land. Both the parties have led oral evidence. The oral evidence produced by the plaintiff is supported by continuous revenue record. It is admitted that plaintiff has been shown as owner in the revenue record for the last so many years. If the plaintiff never came into possession of the suit property, as per the case of the defendants, then how the name of the plaintiff came into revenue record.

Again, if the defendants were in possession but their

names were not shown in the revenue record for the last so many years, then why the defendants have not taken any step to get corrected the revenue record at the initial stage.

The findings given by both the Courts below are concurrent, as per law and evidence. There is nothing on the record to show as to which evidence has been misread and how the findings given by the Courts below are perverse.

In view of the above discussion, I find that the judgments and decrees passed by the Courts below are correct, as per evidence and law and do not require any interference from this Court and the same are upheld. No substantial question of law arises in the present regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

July 31, 2015
Vgulati

(INDERJIT SINGH)
JUDGE