

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4729 of 2014(O&M)

Date of decision: December 10, 2015

Gram Panchayat Village Kundal

... Appellant

Vs.

Om Parmatma

... Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.S. Rathee, Advocate
counsel for the appellant.

Surinder Gupta, J

This is an appeal filed by Gram Panchayat, Village Kundal, against the judgement and decree passed by the Courts below whereby, the suit of the plaintiff-respondent Om Parmatma was decreed and the defendant-appellant was restrained from interfering in his possession over the suit property, except in due course of law.

The case of the plaintiff, in brief, is that he is in possession of the suit property, which was earlier in possession of his forefathers, for last about 70 years. A house has also been constructed over this property.

The Gram Panchayat contested the claim of plaintiff, inter alia pleading that the suit land was not owned by forefathers of the plaintiff and plaintiff was not residing in the house in dispute.

The learned Addl. Civil Judge (Senior Division), Sonipat, decreed the suit with the observation that plaintiff's possession over the suit property is proved and the Gram Panchayat can evict him in due course of law.

The above finding of learned Addl. Civil Judge (Senior Division) were affirmed in appeal by Addl. District Judge, Sonipat.

I have heard learned counsel for the appellant and perused the paper book and judgements of Courts below with his assistance.

The suit land bearing khasra No.1466 min 0-4 biswas, is admittedly owned by the Gram Panchayat. A perusal of the pleadings reflect that plaintiff is in possession of the same and there exists a constructed house over the suit property. Both the Courts below have categorically observed that Gram Panchayat can evict the plaintiff-respondent in due course of law.

Learned counsel for the appellant argues that the plaintiff is claiming his possession over the suit property for the last 70 years and has also raised the plea of adverse possession.

On perusal of the judgements of Courts below, I find that there is no finding in favour of the plaintiff that he has attained title over the suit property by way of adverse possession. The first Appellate Court has rather commented on the role of Gram Panchayat, as to why till date, it has not taken any action against the respondent regarding his illegal possession.

In view of the above position, the remedy available to the Gram Panchayat, Village Kundal, is to file the appropriate proceedings, to seek ejectment of plaintiff, instead of venturing in civil courts.

On perusal of the judgements of both the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has not merits.

Dismissed.

December 10, 2015

deepak/jv

(Surinder Gupta)
Judge