

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**C.M. No. 9380-C of 2015 and
RSA No. 5 of 2014**

Date of decision: 13.08.2015

Sitar Ali and others

...APPELLANTS

VS.

Om Parkash and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Bhupinder Singh Thind, Advocate,
for the applicant/appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 9380-C of 2015

Prayer in this application is for impleading the legal heirs of respondent No. 1-Om Parkash, who is stated to have died on 04.11.2014. The details of the legal heirs are mentioned in para-3 of the application. The application is supported by an affidavit of appellant No. 1.

In view of the above, the present application is allowed subject to just exceptions and the legal heirs, as mentioned in para-3 of the application, are impleaded as party respondents. The amended Memo of Parties attached along with the application is taken on record. Registry is directed to place the same at the appropriate stage of the case.

RSA No. 5 of 2014

In this Regular Second Appeal, challenge has been posed to the judgments and decrees passed by the Courts below, whereby the suit filed by the respondents-Om Parkash and others stands decreed granting them injunction and restraining the appellants-defendants from interfering, in any manner, in the peaceful possession and ownership of the plaintiffs qua the

suit property i.e. Khasra No. 54/187 (0-2) situated in the abadi of Village Raipur Kalan, Tehsil and District Mohali and further restraining them from encroaching upon the property of the plaintiffs, as mentioned above.

The trial Court decreed the suit on 19.11.2012, against which the appellants-defendants preferred an appeal, which was decided against them by the Additional District Judge, SAS Nagar, Mohali vide judgment dated 21.08.2013 rejecting the same.

It is the contention of the counsel for the appellants-defendants that the disputed Khasra No. 54/187 (0-2) does not exist and, therefore, the injunction granted by the Courts below cannot sustain. He further contends that under the garb and disguise of the said decree, the respondents have filed an execution, in which the appellants are being dispossessed even when such a Khasra No. 54/187 (0-2) does not exist. In support of this contention, he has tried to place reliance upon the Jamabandi Ex. D2 as also aks shajra Ex. D4.

Even if assuming that the argument, as has been raised by the counsel for the appellants, is correct, then they are not prejudiced especially when he makes a statement that the appellants-defendants are not in possession of Khasra No. 54/187 (0-2). If they are not in possession of the said Khasra Number or have not encroached thereon, then there is no reason why the appellants need to feel aggrieved by the decree, which has been passed. But if they have encroached thereon or are in possession then the judgments and decree are in accordance with law and based on the evidence on record which do not call for any interference. No substantial question of law is involved in this case.

The appeal being without merit stands dismissed.

August 13, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE