

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5617 of 2014 (O&M)
Date of Decision.14.12.2015

Bikramjit Singh

.....Appellant

Vs.

Paramjit Kaur and others

.....Respondents

Present: Mr. R.K. Arya, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Delay of 10 days in filing and 98 days in refiling the appeal is condoned.
2. The suit was filed by the plaintiff for claim to the property as being held in his possession and that the property belonged to the Forest Department having been let out to him. The plaintiff's reliance had been on khasra girdawari that had entered in his name in the year 1990-91 and there was another entry in the year 2004-05. The suit was instituted on October 2010. The Court found that for the relevant years from 2010 to 2013, the defendant's name had been entered as the party in possession. The defendant had also examined the village sarpanch who said that it was the defendant who was in possession of the property.
3. The counsel tried to show an identity card issued by the BSF as establishing that he was actually in possession of the property. He

admitted in the cross-examination that the identity card was normally issued to persons who were cultivating the property at the border near the fence between India and Pakistan and there was no reference in the identity card that it was the suit property which was held by him in possession at the time when the identity card was issued. With no evidence available for the plaintiff to prove his possession on the date of the suit, decree of injunction was declined. The Appellate Court affirmed the same.

4. The argument by the counsel is that neither the defendant nor the person under whom the defendant was claiming was examined. According to the counsel, the Sarpanch was giving evidence against the plaintiff only out of party faction. There is no need to examine the defendant's case and if the plaintiff did not have proof with reference to his own possession of the property for which the suit was instituted, there was no justification for him to claim relief of injunction against the defendant.

5. The matter has been properly considered by the two Courts below. There is no error for reconsideration in the second appeal. The second appeal is devoid of merit and it is dismissed.

(K. KANNAN)
JUDGE

December 14, 2015
Pankaj*