

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

301

RSA No.603 of 1993.

Date of Decision: 07.01.2016.

Bud Singh

....Appellant.

VERSUS

Ghuma Singh and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

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?*

Present: None for the appellant.
Mr. Deepak Manchanda, Additional Advocate General,
Haryana.
Mr. G.S. Bhatia, Advocate for respondent No.3.

HEMANT GUPTA, J. (ORAL)

The challenge in this Regular Second Appeal is to the judgment and decree dated 24.05.1989 passed by the trial Court and the judgment and decree dated 15.10.1992 passed by the Learned First Appellate Court whereby the suit for injunction in respect of land measuring 167 Kanals 13 Marlas was dismissed.

The plaintiff/appellant claims to be in possession of the said land though land is said to be owned by Shamlat Musalman. Defendant No.1 claims to be in possession of 50 Kanals as lessee since 1985 under the Punjab Wakf Board whereas defendant No.2 claims to be in possession of 24 Kanals as lessee. Defendant No.3 claimed ownership over the land in

question. The learned trial Court dismissed the suit though it found the plaintiff to be in possession of 24 Kanals of land. However, in appeal, the learned first appellate Court returned a finding that the plaintiff though claimed to be in possession but has not asserted that he is in possession under whom as who has given land for cultivation. It has been also found that the plaintiff has filed an application for correction of Khasra Girdawari against Punjab Wakf Board and therefore, it is not open for him to assert that Punjab Wakf Board is not owner of the suit land.

None has put in appearance on behalf of the appellant. Even the actual date notice was issued to the appellant. In the present second appeal, no substantial question of law has been framed nor arises for consideration in view of the findings recorded. The appellant claims to be in possession but the nature of possession is not asserted. The plaintiff has filed an application for correction of Khasra Girdawari against Punjab Wakf Board meaning thereby that his lis is with Punjab Wakf Board but asserted it as the owner. In the absence of any proof of the nature of possession, the appellant would not be entitled to injunction against the true owner.

In view thereof, I do not find any merit in the regular second appeal and the same is dismissed.

(HEMANT GUPTA)
JUDGE

07.01.2016
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