

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**RSA No. 109 of 2007(O&M)**  
**Date of decision : April 28, 2016**

**Pooja Ashtan Shamji Regd.**

**..... Appellant**

**Versus**

**S. C. Gupta and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. G. S. Dhillon, Advocate  
for the appellant.

Mr. Nitin Kumar, Advocate  
for the respondents.

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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?

**Amit Rawal, J (oral).**  
**CM No.15492-C of 2015**

For the reasons stated in the application, application  
is allowed.

The appeal is restored back to its original number.

**RSA No. 109 of 2007(O&M)**

The appellant-plaintiff is aggrieved of the dismissal of the suit seeking prohibitory injunction in respect of the property measuring 72 x 300' on the premise that the documentary evidence placed on record show long and settled possession of the appellant-plaintiff.

Mr. G. S. Dhillon, learned counsel appearing on behalf of the appellant submits that there has been gross mis-reading

of the evidence. The Local Commissioner's report dated 9.5.1997 Ex.P-2 reveals possession of the appellant-plaintiff. Though, it shows that it was a deserted place and self grown grass and bushes and there was no electricity in the area. The khasra girdawari upto the year 1994 showed possession of the plaintiff. The revenue record brought on record carries a presumption of truth under Section 44 of the Punjab Land Revenue Act, 1887 until and unless the same is rebutted. The defendants failed to lead any evidence to rebut the same, therefore there is illegality and perversity in the judgment and decree of both the courts below and, thus urges this Court to formulate substantial questions of law for determination by this Court as carved out in Memorandum of Appeal.

Mr. Nitin Kumar, learned counsel appearing on behalf of the respondents submits that ownership of the property vests in defendant No.6 by virtue of a notification. The entries in the jamabandi and khasra girdawari shows the erstwhile owner to be in possession which has now vested in Hindustan Vegetable Oil Corporation Ltd. No explanation has come forth how the owners in khasra girdawari and jamabandi alleged to be in the name of Pooja Asthan whereas candid admission of the plaintiff was that there was no idol in that place neither electricity connection was there. The genesis of the suit is ill-founded, thus urges that judgment and decree of both the courts below be affirmed.

I have heard learned counsel for the parties, appraised the paper book and of the view that PW-8-Mahant Parmeshwari in the cross-examination spilled the beans by saying

that she has not established the idols nor she knows, who had purchased the idols, much less there was no electricity connection in the premises. All these factors, irresistibly lead to a conclusion that the area in question was a deserted place which was not used for Pooja Asthan. The documentary evidence brought on record on behalf of the defendant reveals that the entries in favour of Pooja Asthan have been upto the year 1994 whereas the suit was filed on 27.3.1996. The report of the Local Commissioner do not establish possession of the appellant-plaintiff. The khasra girdawari for the year 1994 to 1997 Ex. P-22 brought on record to show that there is no entry in favour of Pooja Asthan i.e. Plaintiff. The plaintiff cannot be said to be in possession on the day when the suit was filed. There was no ad interim injunction at the time when the suit was filed.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**April 28 , 2016**  
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