

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.3823 of 2009 (O&M)

Date of Decision: April 21st, 2016

Gram Panchayat Village Fateh Nangal, Tehsil & District Gurdaspur

...Appellant

Versus

Sukhdev Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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: Mr.Akash Sethi, Advocate for
Mr.Vipin Mahajan, Advocate,
for the appellant.

Mr.R.S.Bajwa, Advocate,
for respondent No.1.

Mr.Ajay Pal Singh, Advocate with
Mr.Anil Kumar Sharma, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

Appellant-Gram Panchayat is aggrieved of the concurrent findings of facts and law, whereby they have been enjoined not to dispossess the respondent-plaintiff in respect of the property measuring 1 kanals 1 marla, except in due course of law.

Mr.Akash Sethi, Advocate for Mr.Vipin Mahajan, Advocate, appearing on behalf of the appellant-Gram Panchayat submits that the land is Jumla Mustarka Malkan and is owned and possessed by the Gram Panchayat and, therefore, the judgments and decrees are not sustainable.

There has been a gross misreading of the oral and documentary evidence. The plaintiff has miserably failed to prove that he is owner, much less in possession of the property. The Municipal Committee had also issued notices under the provisions of the Punjab Municipal Act for illegal construction, in essence the construction has been raised without getting the plan sanctioned. The jamabandi, Ex.P13, does not show the possession and, thus, urges this Court to formulate the substantial questions of law as culled out in the memorandum of appeal.

Mr.R.S.Bajwa and Mr.Ajay Pal Singh, learned counsel appearing on behalf of the respondents submit that issuance of notice at the behest of the Municipal Committee itself shows the possession of the plaintiff and the decree is most innocuous as plaintiff has been granted injunction, in essence he cannot be dispossessed, except in due course of law. Even otherwise, the property has been vested in Municipal Committee. The Gram Panchayat is no longer having any control, much less ownership of the property and, thus, urge this Court for affirming the findings rendered by both the Courts below.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the appellant-Gram Panchayat has miserably failed to prove on record documents in support of the stand taken in the written statement, whereas on the contrary copy of jamabandi, Ex.P13, shows the possession of the respondent-plaintiff. It has come on record that the Gram Panchayat has not moved any application for correction of the revenue record. It is settled law that a person, who is found in long and settled possession, cannot be dispossessed except in due course of law. Keeping this object in mind, the trial Court granted the decree,

which has been affirmed by the Lower Appellate Court. In case the appellant-Gram Panchayat is able to prove the ownership, it shall not preclude them from seeking possession in accordance with law, but not forcibly or illegally.

Keeping in view the aforementioned facts and circumstances, I do not intend to differ with the findings of both the Courts below. No substantial question of law arises for determination by this Court.

The appeal stands dismissed.

April 21st, 2016
ramesh

(AMIT RAWAL)
JUDGE