

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

RSA No.5084 of 2010 (O&M)

Date of decision : 18.03.2016

Bahadur Singh and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Bhag Singh, Advocate for the appellants.

Mr. Vishal Garg, Addl. A.G. Haryana.

AMIT RAWAL, J. (Oral)

The appellants-plaintiff is aggrieved of the judgment and decree of the lower Appellate Court, whereby suit for permanent injunction seeking restraint order against the defendants from obstructing the plaintiff from cutting and removing the standing trees from the land bearing khewat/khatauni no.652/min/851, khasra No.136//22/1(2-16), 22//2 (1-3), 144//2/1 (7-0), total measuring 10 kanals 19 marlas as per jamabandi for the year of 1995-96, has been dismissed.

The trial Court decreed the suit. However lower Appellate Court dismissed the suit on the ground that as per the Enumeration Register,

number of trees are mentioned.

Mr. Bhag Singh, learned counsel appearing on behalf of appellants submits that once it is admitted fact that land belongs to the appellant-plaintiff trees standing would also be of his. Trees being fixtures with the land belongs to the owner even if it are numbered by the Forest Department. Mere numbering for the purpose of identification of the trees does not create right of the ownership.

Mr. Vishal Garg, Addl. A.G. Haryana, submits that appellant has to prove whether trees were actually planted by him or not but ownership of land is not disputed whereas on the contrary, enumeration register placed on record showed that trees belong to the Forest Department and thus, there is no error of law, much less, illegality and perversity in the judgment and decree of the lower Appellate Court.

Mr. Bhag Singh, in rebuttal submits that jamabandi Ex.P1 for the year 2000-01, Ex.PW2/B-Demarcation Report and judgment and decree dated 09.01.2008, shows that land is of plaintiff and trees also belong to the plaintiff and thus urges this Court to formulate following substantial questions of law:-

1. Whether the appellant-plaintiff is entitled to injunction as prayed for?
2. Whether the judgment and decree of lower appellate Court is erroneous, much less, perverse and against the principle settled law.?

I have heard learned counsel for the parties and appraised the paper book.

Mr. Bhag Singh, have also relied upon judgment rendered by this Court in *Ghasi Ram Vs. Arun Kumar, 2006(1) RCR (Civil) 751* to contend that trees upon the land are part of the land and his client has right to cut down and sell those trees is incidental to the proprietorship of the land. Once factum of ownership is admitted, the plaintiffs cannot be restrained from cutting, removal trees from the land. Lower Appellate Court has not appreciated the aforementioned facts. Aforementioned judgment rendered by this Court has been rendered taking into consideration the case law on this proposition, I am in agreement with the findings rendered in *Ghasi Ram's case (supra)*, therefore, judgment and decree of the lower Appellate Court is not sustainable and hereby set aside and that of the trial Court is restored.

Questions of law as noticed above are answered in favour of appellants-plaintiff and against the respondent.

Suit is decreed.

Appeal stands allowed.

18.03.2016

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**(AMIT RAWAL)
JUDGE**