

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

RSA No.2819 of 2011 (O&M)

Date of decision : 11.04.2016

Prem Chand

...Appellant

Versus

Gram Panchayat, Gumthala 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. C.B. Goel, Advocate for the appellant.

Mr. R.K. Agnihotri, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

CM No.7725-C of 2011

For the reasons stated in the application, which is duly supported by an affidavit, delay of 78 days in filing the appeal is condoned.

Application is allowed.

Main Case

The appellant-plaintiff is aggrieved of the concurrent findings of fact of law whereby suit claiming relief of permanent injunction after having given up relief of declaration claiming ownership by way of adverse possession, has been dismissed.

Mr. C.B. Goel, learned counsel appearing on behalf of appellant-plaintiff submits that in view of findings rendered by the trial Court in para No.16, possession of the appellant-plaintiff over the suit property has been found unauthorized and thus by applying the principles as culled out in the judgment rendered by Hon'ble Supreme Court in *Rame Gowda Vs. M. Varadappa Naidu (dead) by LRs and another, 2004(1) SCC 769*, plaintiff cannot be dispossessed except in due course of law. Nothing prevents the Gram Panchayat to seek the possession in accordance with law and thus urges this Court to formulate following substantial questions of law:-

1. Whether a person found in settled possession in view of the findings rendered by the trial Court is entitled to injunction or not?
2. Whether a person who is in continuous, long and settled possession can be dispossessed except in due course of law or not?

Mr. R.K. Agnihotri, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that it is Gram Panchayat who is in possession. The plaintiff has miserably failed to prove the settled possession. Both the Courts below have concurrently rendered a finding of fact and law which cannot be interfered as no substantial questions of law arises for determination.

I have heard learned counsel for the parties and appraised the paper book and of the view that in view of findings rendered by the trial Court in para No.16, which reads thus:-

“16. In view of the aforesaid discussion, the plaintiff has miserably failed to show that the plaintiff is coming in continuous settled possession over the suit land, rather, from the evidence on record, it is clear that the possession of the plaintiff over the suit property is unauthorized possession and in such circumstances, and in view of the aforesaid discussion the plaintiff has failed to establish any legal basis for the grant of permanent injunction protecting his possession against the defendants. This issue is accordingly decided against the plaintiff and in favour of the defendants.”

Appellant-plaintiff is in possession of the property. Nothing prevents the defendant-Gram Panchayat to take action in accordance with law i.e. as per the provision of Village Common Land Act, 1961 but cannot be permitted to interfere into peaceful possession, much less, forcibly take the possession in view of ratio decidendi culled out in judgment, referred as supra.

Keeping in view the aforementioned facts and circumstances, the suit of the appellant-plaintiff is decreed. Respondent and their agents etc. are restrained from interfering into the peaceful possession and forcible and illegal dispossession of the plaintiff except in due course of law.

Appeal stands allowed.

Decree sheet be prepared.

The respondents-defendants shall be at liberty to take the objections in accordance with law.

11.04.2016

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**(AMIT RAWAL)
JUDGE**