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

**RSA-3479-2012 (O&M)
Date of decision : 16.05.2016**

Ramji Lal and others

... Appellants

Versus

Kallo and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Jain, Advocate
for the appellants.

None for the respondents.

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)

The appellant(s)-defendant(s) are aggrieved of the concurrent findings of fact, whereby the suit for permanent injunction restraining them from forcibly dispossession and interference qua suit property at the instance of the respondents-plaintiffs has been decreed by both the Courts below.

Mr. Amit Jain, learned counsel appearing on behalf of the appellant(s)-defendant(s) submits that the respondent(s)-plaintiff(s) failed to prove the possession regarding suit property, whereas on the contrary, as per the report of the Assistant Collector First Grade, Mewat, after spot inspection, the appellant(s)-defendant(s) are found to be in possession. The aforementioned order is under challenge and the outcome of the appeal is not ascertainable. He further submits that the respondent(s)-plaintiff(s) has to

stand on his own legs having failed to prove the possession, the Courts below ought not to have granted injunction, thus, urges this Court to formulate the substantial questions of law as carved out in the memorandum of appeal.

The respondents have duly been served as evident from the order dated 18.08.2015, but there is no representation on their behalf. Accordingly, I proceed to decide the appeal on merits.

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

On examination of the judgment and decree and as well as the lower Courts record shown to this Court by Mr. Amit Jain, I am of the opinion that the preceding to the sale deed dated 23.12.2005, Jai Devi had filed an objection petition against Chhotu, erstwhile tenant and the ejectment order was passed on 27.02.1986. The possession was handed over to Jai Devi, as per the Rapat Roznamcha bearing No.262 dated 18.03.1996. The respondent(s)-plaintiff(s), in order to prove his case, has brought on record the following documentary evidence:-

- Ex.P1 : Sale deed Vasika no.1887 dated 23.12.2005.
- Ex.P2 : Certified copy of appeal in case titled as “Smt. Kallo Vs. Ram Ji Lal”.
- Ex.P3 : Certified copy of order dated 19.04.2006 in appeal titled as “Kallao Vs. Ramji Lal”.
- Ex.P4 : Jamabandi for the year 2001-02.
- Ex.P5 : Mutation No.270.
- Ex.P6 : Khasra girdawari from Rabi 2005 to Kharif, 2005.
- Ex.P7 : Khasra Girdawari from Kharif 1992 to Rabi 1997.
- Ex.P8 : Certified copy of order dated 27.02.1986 in case “Jaidevi Vs. Lal Man.

Ex.P9 : Copy of rapat roznamcha.

Ex.P10 : Certified copy of order of appeal dated 04.01.2006.

The Khasra Girdawari from Rabi 2005 to Kharif, 2005 (Ex.P-6), immediately preceding to the sale deed shows the possession of Jai Devi. The copy of the order dated 04.01.2006 having relied upon by the appellant(s)-defendant(s) is not in conformity with the provision of the Punjab Land Revenue Act, 1887, for, the order of correction of the Khasra Girdawari has been passed from ascertaining the information from the person in the locality, in essence, there is no reference to the previous revenue record. The Assistant Collector First Grade, Mewat was enjoined upon the obligation to refer to the revenue record to form an opinion instead of having relied upon the statements of the persons of concerned area, whereas on the contrary the Khasra Girdawari (Ex.P-6) shows the possession of Jai Devi. In my view, the respondent(s)-plaintiff(s) had discharged the onus by proving on record the aforementioned evidence, much less, burden, whereas on the contrary, appellant(s)-defendant(s) failed to prove the possession.

For the foregoing reasons, no ground is made for interference in the findings, under challenge much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

16.05.2016
yogesh

(AMIT RAWAL)
JUDGE