

214

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

**RSA-4165-2012 (O&M)
Date of decision : 19.01.2016**

Shokeen and others

...Appellants

Versus

Ramjan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Shiv Kumar, Advocate
for the appellants.

Mr. J.S. Hooda, Advocate,
for respondents No.1 to 4.

Mr. Deepak Sabherwal, Advocate
for respondent No.5.

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 appellants-defendants are in regular second appeal against the concurrent findings of the fact and law, whereby the suit at the instance of the plaintiff seeking permanent injunction has been decreed and the appellants-defendants have been restrained from interfering in the peaceful possession, much less, similar injunction has been passed against defendant No.8-Wakf Board

from interfering in the peaceful possession except in due course of law.

Mr. Shiv Kumar, learned counsel appearing on behalf of the appellants-defendants submits that both the Courts Courts have committed illegality and perversity in decreeing the suit as umpteen number of documents would show that defendant Nos.1 to 7 were in possession and the order of the Assistant Collector proved the same, though the proceedings before the Financial Commissioner have been adjourned *sine die* for waiting the decision of the Civil Court. However, there is interim order of status quo.

Mr. J.S. Hooda, learned counsel appearing on behalf of respondent Nos.1 to 4 submits that there is no illegality and perversity in the judgment and decree, much less, no substantial question of law arises for determination as the decree has been passed on appreciation of the oral and documentary evidence.

Mr. Deepak Sabherwal, learned counsel appearing on behalf of respondent No.5-Wakf Board submits that in case the said property is of the Wakf Board, it shall take action viz-a-viz possession in accordance with law.

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

Both the Courts below have found that the respondents-plaintiffs have been able to establish their possession as per the jamabandi for the year 1998-99 (Ex.P1). Whereas, the defendants have not been able to prove any documentary evidence to show

their possession. It is a settled law that a person, who is found to be in long and settled possession, cannot be dispossessed except in due course of law. Reference was made to the judgment of Hon'ble Supreme Court in **"Rame Gowda (D) LRs V/s Mr. Varadappa Naidu (D) by LRs and another" 2004 (1) SCC 769.**

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of the oral and documentary evidence, much less, no substantial questions of law arises to be determined by this Court.

Accordingly, the appeal is dismissed.

However, since order of the Assistant Collector has been set aside and the matter is pending before the Financial Commissioner, the parties shall be at liberty to seek the redressal of the grievance, in case they chose.

The observations of mine shall not effect the merits and demerits of the matter stated to be pending before the Financial Commissioner.

19.01.2016
yogesh

(AMIT RAWAL)
JUDGE