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

RSA-50-2012 (O&M)

Date of decision : 14.01.2016

Sukh Lal

...Appellant

Versus

Gram Panchayat Mamaria Thether and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gopal Sharma, Advocate
for the appellant.

Mr. P.R. Yadav, Advocate
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-plaintiff is in regular second appeal against the findings rendered by the lower Appellate Court, as trial Court decreed the simpliciter suit for injunction seeking restraint order against the Gram Panchayat, not to dispossess forcibly except in due course of law, has been decreed.

Mr. Gopal Sharma, learned counsel appearing on behalf of the appellant-plaintiff submits that the possession of the

appellant-plaintiff has been proved through the report of Local Commissioner as well as from the cross-examination of witness appeared on behalf of the Gram Panchayat. The respondents-defendants shall be at liberty to seek the possession in due course of law. In support of his contentions, he relies upon 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.**

Mr. P.R. Yadav, learned counsel appearing on behalf of the respondents-Gram Panchayat, submits that there is no illegality and perversity in the judgment and decree of the lower Appellate Court as the appellant-plaintiff has not been found to be in long and settled possession of the property. Thus, the following substantial question of law arises for determination by this Court:

1. Whether a person who is found to be in long and settled possession of the property in dispute, can be dispossessed except in due course of law or not?

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

The testimony of the report of the Local Commissioner and as well as the cross-examination of the witness of respondents-defendants reveals that the appellant-plaintiff had been found to be in long and settled 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. Without adjudicating, upon the aspect as to whether, the appellant-plaintiff has raised the

construction on the demise premises or not the fact remains that he is in possession and the possession can be taken only in due course of law. The present appeal squarely falls within the ambit of findings rendered in the judgment of Hon'ble Supreme Court in ***Rame Gowda's case*** (*supra*).

Accordingly, the judgment and decree rendered by the lower Appellate Court is set aside and the substantial question of law as noticed above is answered in favour of the appellant-plaintiff and against the respondents-Gram Panchayat. It is made clear that the respondents-defendants shall be at liberty to take the possession in due course of law.

The appeal stands allowed.

14.01.2016
yogesh

(AMIT RAWAL)
JUDGE