

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA No.1514 of 2013 (O&M)

Date of Decision: 4.2.2016

Vishal Lal & Anr.

...APPELLANTS

VERSUS

Gagan Arora & Anr.

....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.Virender Kumar, Advocate for the appellants.

Mr.Ashish Aggarwal, Senior Advocate with
Mr.Kulwant Singh, Advocate for the respondents.

Amit Rawal, J. (Oral)

The appellants-defendants are aggrieved of the concurrent findings of facts and law, whereby, suit for possession of the property in dispute described in the plaint, has been decreed by the Courts below.

Mr.Virender Kumar, learned counsel for the appellant-defendants has raised multiple arguments i.e. (i) respondents-plaintiffs have failed to establish their possession; (ii) they have not proved the title of the land in dispute and (iii) jamabandi entries in favour of successors-in-interest and judgment & decree dated 26.11.1981 (Ex.P.4) would not clothe the ownership and possession in favour of respondent-plaintiffs as Ex.D3 and Ex.D4 have not been taken into consideration by the courts below. The order (Ex.P7) passed by the Collector, whereby the suit property has been

entered into ownership and possession, has not been challenged. He further submits that both the courts below failed to notice the aforementioned facts, which have been proved on record by leading documentary evidence.

Mr.Ashish Aggarwal, learned Senior counsel assisted by Mr.Kulwant Singh, counsel for the respondents on the other hand, submits that the order (Ex.P7) has been passed by the Collector at the back of the respondents. The respondents have not taken the possession after having got their name entered in the jamabandi (Ex.D2). Khasra girdawari (Ex.D4) has already clothed the ownership and possession of the plaintiffs.

After passing the aforesaid order, the respondents were dispossessed. Accordingly, the suit was filed seeking their possession. The defendants failed to take the plea of ownership of the plaintiffs.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below.

It is necessary to reproduce the memo of parties as well as relief clause of judgment of the trial Court :-

“Vishan Devi widow of Shri Tola Lal son of Thakur Asoo Lal, resident of Qasba Indri, Tehsil & District Karnal.

2.Sita Devi wife of Shri Lila Ram, resident of Nilokheri, Tehsil & District Karnal.

...Plaintiffs

Versus

1.Smt.Ram Piari widow of Shri Mohan Lal, resident of House No.226, Char Chaman, near Post Office, Karnal.

2.Shri Vishan Lal 3. Shri Mahesh Lal, both minors, sons of Sh.Manohar Lal son of Shri Daidha Lal in the guardianship of Shri Manohar Lal the real father of the said minors, Teacher Govt. Primary School, Vill. Khere near Vill. Indri, Tehsil & Distt. Karnal.

...Defendants

Relief

14.As a consequence of discussion made above and findings arrived at the issues, the suit of the plaintiffs is decreed and the

plaintiffs are declared owners in possession in equal shares of the suit land. In peculiar circumstances of the case the parties are left to bear their own costs. Decree-sheet be prepared and file be consigned.”

A perusal of the aforesaid memo of parties would show that the parties are same in the present litigation as well. The suit of plaintiffs regarding ownership and possession has been decreed by the courts below. In case, the appellants were aggrieved of the judgments, nothing prevented them to claim declaration by filing an independent suit. Mere entries in the revenue record would not clothe their status of ownership as relevant entries though may have presumption of truth. The order of Collector (Ex.P7) has been passed at the back of the respondents-plaintiffs. The same has not been looked into by the courts below. The concurrent finding is in favour of plaintiffs after appreciating the oral as well as documentary evidence by the courts below.

In view of the aforementioned observations, I do not find any illegality and perversity in the concurrent findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(Amit Rawal)
Judge

4.2.2016
AS