

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2131 of 2013(O&M)
Date of decision : March 22, 2016

Babu Lal and another

..... Appellants

Versus

Hazi Rashid Ahmad and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. J. S. Hooda, Advocate
for the appellants.

Mr. Himanshu Puri, Advocate for
Mr. J. S. Ghuman, 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-defendant is aggrieved against the concurrent finding of fact whereby the suit for possession and injunction has been decreed in favour of the respondents-plaintiffs.

Learned counsel appearing on behalf of the appellants submits that prior to filing of the present civil suit, 11 muslim families filed a civil suit bearing No. 193 dated 1.2.1987 against Wakf Board and the same was decreed on 28.2.1997 and the Wakf Board was restrained from interfering into peaceful possession of the land which was being used as Kabristan. Both the

courts below have relied upon the documentary evidence Ex. P-21 which is not as per the High Court Rules and Orders as the demarcation has been done at the back of the appellant-defendants. In essence, the plaintiffs have failed to prove the identity of area alleged to be in their possession and occupation. Without there being any specific averment, the suit ex facie was not maintainable. There was no adjudication viz-a-viz demarcation report.

He further submits that the suit was barred by law of limitation as the decree was passed in the year 1997 and as per paragraph 3 of the plaint, the demarcation of the suit property was done on 20.11.2001, whereas, the suit was filed in the year 2005, the limitation to file the suit, in the absence of title is beyond the period of limitation. All these facts have not been noticed by both the courts below, thus, there is illegality and perversity in the judgments and decrees of both the courts below and urges before this Court to formulate substantial questions of law for determination by this Court.

Learned counsel appearing on behalf of the respondents submits that the respondents-plaintiffs have purchased the property measuring 139 sq. yards vide sale deed dated 21.4.1999 out of Khasra No.2322 whereas, they have taken possession of land in Khasra No.2321 which is part of the property belonging to the respondents-plaintiffs. The cause of action accrued only when the entry viz-a-viz rapat roznamcha bearing No. 882 dated 28.5.2004 was made and khasra girdawari of the suit land was corrected in favour of the plaintiffs and proforma defendants, thus the suit cannot be said to be barred by law of limitation.

I have heard learned counsel for the parties appraised the paper book and of the view that there is no substance and merit in the submissions of the learned counsel for the appellant for the reason that it is a settled position on record that the plaintiffs purchased land measuring 139 sq.yards vide sale deed dated 21.4.1999 out of khasra No.2322 whereas as per the demarcation report Ex. P-21, they are owners of land in Khasra No.2321 which is reflected in the name of the respondents-plaintiffs. The cause of action to seek possession accrued in the year 2004 and the suit has been filed in the year 2005, therefore it cannot be said that the suit was barred by law of limitation.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

March 22, 2016
archana