

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

**RSA-250-2013 (O&M)
Date of decision : 25.10.2016**

Darshan Singh

... Appellant

Versus

Surjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. I.S. Pabla, Advocate
for the appellant.

Mr. Manoj Kumar, Advocate
for the respondents.

AMIT RAWAL, J. (ORAL)

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court, whereby the suit of the respondents-plaintiffs for permanent injunction in respect of the suit property, has been decreed, in essence, the judgment and decree of the trial Court has been set aside.

Mr. I.S. Pabla, learned counsel appearing on behalf of the appellant-defendant submits, that Sobha Ram had filed a civil suit against Karnail Singh, Ajaib Singh, Sohan Singh and Pritam Singh for possession, however, the suit was partly dismissed in respect of certain areas of the land and as regards the other area, the suit was partly decreed, but the lower Appellate Court vide judgment and decree dated 12.11.2001 decreed the suit. The regular second appeal bearing No.1668 of 2002 preferred by Pritam Singh was dismissed vide order dated 06.05.2003. In fact, the

appellant-defendant is in possession of the property. No doubt the khasra girdawaris are in favour of the respondents-plaintiffs, but for that, the matter is pending before the Revenue Court, therefore, the lower Appellate Court has committed illegality and perversity. The judgment and decree rendered between Sobha Ram and Pritam Singh is not binding upon the appellant-defendant, thus, urges this Court for setting aside the judgment and decree under challenge.

Per contra, Mr. Manoj Kumar, learned counsel appearing on behalf of the respondents-plaintiffs submits that the trial Court has committed illegality and perversity in dismissing the suit, but the lower Appellate Court being the last Court of fact and law examined the documentary evidence and found that judicial verdict has been recorded by the Civil Court regarding the possession of the party qua suit land and simpliciter suit for injunction was preferred, without having any question of title. The revenue record, which carries a presumption of truth, was also in favour of the respondents-plaintiffs. The findings of fact cannot be interfered until and unless there is gross illegality and perversity, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that no doubt, the respondents-plaintiffs, in the suit filed by Sobha Singh, had set up a adverse possession and the suit for possession was decreed *in toto*. The remedy to seek the execution of the judgment and decree is with Sobha Ram or his LRs. Since the respondents-plaintiffs were apprehending a threat of forcible dispossession and interference, they filed a suit for injunction as the appellant-defendant was not the party in the earlier round of litigation. The lower Appellate

Court having examined the earlier round of litigation that the possession, though unauthorized, is of the respondents-plaintiffs and granted the injunction. I am of the view that such finding is perfect, legal and justified as the appellant-defendant has failed to lead direct, cogent and corroborative evidence to prove the possession.

For the foregoing reasons, I do not intend to differ with the findings rendered by the lower Appellate Court which are based upon the appreciation of the oral and accommodation, much less, no substantial questions of law arises for determination and accordingly, the appeal is dismissed.

25.10.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned Yes/ No

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Whether Reportable Yes/ No