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

Date of decision : 08.04.2016

1. RSA-2849-2013 (O&M)

Barfi Devi and others

...Appellants

Versus

Krishan Kumar and others

... Respondents

2. RSA-2850-2013 (O&M)

Barfi Devi and others

...Appellants

Versus

Dharambir

... Respondent

3. RSA-2851-2013 (O&M)

Barfi Devi and others

...Appellants

Versus

Sadhu Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ajit Sihag, Advocate
for the appellants (in all the appeals.).

Mr. R.N. Lohan, Advocate
for the respondent(s) (in all the appeals).

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)

This order of mine shall dispose of three appeals bearing RSA No.2849 of 2013 titled as “Barfi Devi and others V/s Krishan Kumar and others”, RSA No.2850 of 2013 titled as “Barfi Devi and others V/s Dharambir” and RSA No.2851 of 2013 titled as “Barfi Devi and others V/s Sadhu Ram”.

The appellant(s)-defendant(s) are aggrieved of the dismissal of the counter claim in a suit for permanent and mandatory injunction, whereby they sought ownership and possession of the suit property against the respondent(s)-plaintiff(s), on the basis of the long and settled possession and as well as documentary evidence.

Mr. Ajit Sihag, learned counsel appearing on behalf of the appellant(s)-defendant(s) submits that the suit for injunction was not maintainable as the respondent(s)-plaintiff(s) have not been found in long and settled possession whereas, *bahi* entry does not confer right and title and rightly so, counter claim was filed, but the same has been declined. The land was Pana Thola and all the resident of Thola Pana were given plots to construct the residential houses and accordingly, the land, in dispute, in a main case and the land involved in the consolidated suits measuring 240 sq. yards was distributed amongst four persons i.e. 60 sq. yards each. By way of counter-claim, possession was sought for removal of the construction and handing-over of the vacant land measuring 60 sq. yards. During the course of summoning of defendant(s), none appeared on behalf of the proforma defendant Nos.4 to 7, they were proceeded *ex parte*, thus, urges this Court to formulate the substantial questions of law as culled out in the memorandum of appeal.

Mr. R.N. Lohan, learned counsel appearing on behalf of the respondent(s)-plaintiff(s) submits that the trial Court on the basis of the examination of oral and documentary evidence i.e. Ex.P-2 and Ex.P-3, assessment registers for the year 1998-99 and 2002-03, respectively, which shows that the respondent(s)-plaintiff(s) are in actual possession of the suit property and filing of the counter claim itself proves the possession. The trial Court declined the relief of ownership, but granted injunction qua forcible dispossession. The counter claimant failed to prove the ownership as *bahi* entry being an unregistered document, therefore, such document would not confer the right and title, rightly so, the counter claim has been dismissed and prays for dismissal of the appeal(s).

I have heard the learned counsel for the parties and appraised the paper book and of the view that the trial Court has declined the relief of ownership, but granted injunction and restrained the appellant(s)-defendant(s) not to dispossess plaintiff and as per the finding rendered on issue No.10, the aforementioned findings has been arrived at by taking into consideration the documentary evidence on record and filing of the counter claim itself proves that the respondent(s)-plaintiff(s) are in possession. So far as the question of claiming the possession, the counter claim failed to prove the ownership as *bahi* entry do not confer the right and title being an unregistered document.

Keeping in view the aforementioned facts and circumstances of the case, I do not find any illegality and perversity in the judgment and decree of the lower Appellate Court which is based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for

determination.

With the aforesaid observations, the appeals are dismissed.

08.04.2016
yogesh

**(AMIT RAWAL)
JUDGE**