

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

RSA No. 2961 of 2013
Date of decision: 1.3.2016

Ruli Ram and others

.....Appellants.

Versus

The State of Haryana and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE AMIT RAWAL

Present: - Mr. Ashok Verma, Advocate for the appellants.

Mr. D.K.Mittal, DAG, Haryana

Mr. Naren Partap Singh, Advocate for
respondent Nos. 3 to 5.

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AMIT RAWAL, J.

The appellants/plaintiffs are aggrieved of the concurrent findings of fact and law claiming declaration vis-a-vis ownership of the land measuring 27 kanals 19 marlas on the basis of a sale deed dated 20.1.1971 has been declined, much less, injunction with regard to alienation and interference has also been rejected.

Learned counsel for the appellants/plaintiffs submits that the Rehabilitation Department auctioned the said land to one Phula (since deceased) on 17.4.1969. Though, there was an embargo imposed upon the allottee not to sell, transfer or mortgage the land till the expiry of ten years from the date of purchase but Phula sold the land vide sale deed dated 20.1.1971 for an amount of Rs. 6,000/-. Phulla-auction purchaser was issued a sale deed on 22.1.1991. Respondent No. 2 did not take any action till the filing of the present suit and even after filing of the said suit did not take any action upto 2007.

Both the courts below have declined the relief on the ground that in view of the embargo imposed upon Phula not to sell the land for ten years, appellants/plaintiffs can not acquire the valid legal title. A number of documentary evidence has been brought in shape of Jamabandies and Khasra Girdawaries which has also been placed on record to show the long and settled possession of the property, thus, urges this Court to formulate the following substantial questions of law which reads as under: -

- (1) Whether a person who is found in long and settled possession of the property in dispute can be dispossessed except in due course of law?
- (2) Whether the appellants as plaintiffs are entitled to declaration in view of the registered document/sale deed dated 20.1.1971?

Mr. Mittal, learned DAG, Haryana submits that both the Courts below have concurrently found that the appellants/plaintiffs have failed to prove the ingredients of Section 34 of the Specific Relief Act, 1963. Since, Phula did not acquire the full ownership and right and could not have passed on the better title to the plaintiffs. The sale deed is of 20.1.1971 and was executed on 22.1.1991. In view of such situation, no cause of action accrued in favour of the appellants/plaintiffs and accordingly prayed for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the arguments addressed by the Courts below and of the view that the plaintiffs/appellants are in long and settled possession of the property as per the Jamabandies Ex P-1 to P-10 and Khasra Girdawaries Mark C to E. As per the decidendi called out in a judgment of Hon'ble Supreme Court

in “Rame Cowda (D) LRs vs. Mr. Varadappa Naidu (D) by LRs and another” 2004(1) SCC 769, no person who is found in long and settled possession of the property in dispute can be dispossessed except in due course of law.

With the above said modifications, the judgment and decree of the Courts below are modified and suit vis-a-vis, the permanent injunction restraining the defendants not to interfere in the peaceful possession of the appellants/plaintiffs is decreed. The substantial question of law No. 1 against respondents/defendants not to interfere in the settled and long possession of the plaintiffs/appellants is accepted but however, question of law No. 2 is answered against the appellants/plaintiffs as it failed to establish relief qua ownership.

Appeal stands partly allowed. Appellants/plaintiffs are at liberty to seek allotment in accordance with law.

(AMIT RAWAL)
JUDGE

1.3.2016
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