

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.M. No. 9535-C of 2013 and
RSA No. 3549 of 2013 (O&M)

Date of decision: May 17, 2016

Satbir Singh and others

...APPELLANTS

Versus

Sultan and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Abhinav Sood, Advocate,
for Mr. Vikram Singh, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division) Panipat dated 24.11.2011, whereby the suit for permanent injunction restraining the defendants from interfering in possession of the appellants-plaintiffs over the suit land measuring 18 Kanals and 1 Marla stands dismissed, appeal against which preferred, has been also dismissed by the Additional District Judge, Panipat on 25.03.2013.

2. It is the contention of the learned counsel for the appellants that the Jamabandis, which have been produced on record, clearly depict the possession of the appellants-plaintiffs over the suit land. He contends that as per the revenue entry for the year 1961-62, Churia, who was the

predecessor-in-interest of the appellants-plaintiffs, was in possession of the suit land measuring 18 Kanals and 1 Marla as *gair marusi*. The appellants-plaintiffs being the successors to him continued to be in cultivating possession of the suit land and, therefore, when an interference was being made in the peaceful possession of the appellants-plaintiffs by the respondents-defendants, the present suit was filed. He contends that PW1 Satbir Singh and PW2 Arjun have specifically stated that they are in possession of the suit land. He submits that although there is no revenue entry with regard to the fact that the appellants-plaintiffs have succeeded Churia and are continuing in possession but that does not dis-entitle the appellants-plaintiffs to the relief, as has been claimed especially when it has come on record in the oral evidence of the witnesses that they are in possession of the suit land. He contends that no evidence has been led by the respondents which would indicate that the respondents-defendants are in possession of the suit land and, therefore, the Courts could have proceeded to accept the version, as has been put forth by the appellants-plaintiffs and decreeing the suit of the appellants-plaintiffs.

3. I have considered the submissions made by the learned counsel for the appellants and with his assistance, have gone through the impugned judgments.

4. The best evidence, which the appellants-plaintiffs could have produced, was the revenue records indicating that they were in possession of the suit land as successors of Churia, who was, as per the revenue entries for the year 1961-62, recorded to be in possession of the suit land measuring 18 Kanals and 1 Marla as *gair marusi*. It is admitted that Churia died about 28-30 years prior to the filing of the suit. No efforts were made by the

appellants-plaintiffs to get the revenue entries corrected in their name after his death. Although PW2 Arjun and PW1 Satbir Singh have asserted that they were in possession of the suit land but unfortunately in the cross-examination, they have not been able to point out any Khasra Number which is asserted by them to be in their possession nor have they been able to mention as to what is the area of the land. That apart, PW3 Hukam Singh son of Phool Singh, their own witness, had actually, in the cross examination, gone contrary to the pleaded case and claim of the appellants-plaintiffs by stating that the possession of the suit land was taken 6-7 years prior by the respondents-defendants. If that be so, at the time of the filing of the suit, the appellants-plaintiffs were not in possession of the suit land and, therefore, the injunction, as prayed for, could not have been granted in the light of the fact that they have not been able to establish their possession over the suit land.

5. The findings, as recorded by the Courts below being based on due and proper application/consideration of the pleadings and the evidence brought on record cannot be faulted with nor it can be said to be, in any manner, illegal which would call for any interference by this Court.

6. No other point has been raised or argued by the counsel for the appellants.

7. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below.

6. There is no substantial question of law in the present appeal, which requires consideration of this Court.

8. In view of the above, finding no merit in the present appeal, the same stands dismissed.

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In view of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

May 17, 2016

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**