

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

121

Regular Second Appeal No.1653 of 2016 (O&M)
Date of Decision: April 25, 2016

Bhag Singh and others

...Appellants

Versus

Teja Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rajinder Sharma, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 19.08.2013 passed by the Additional Civil Judge (Senior Division), Tarn Taran, whereby the suit filed by respondent No.1-plaintiff for permanent injunction restraining the appellants-defendants from interfering in the exclusive ownership in respect of land measuring 6 kanals 4 marlas as detailed in the headnote of the plaint, especially keeping in view the revenue entries to the extent of his share, stands decreed, appeal against which preferred by the appellants-defendants has been dismissed by the Additional District Judge, Tarn Taran, on 15.01.2016.

2. It is the contention of learned counsel for the appellants that the appellants as also respondent No.1 are co-sharers and, therefore, respondent no.1-plaintiff could not be in exclusive possession of any part of the property as every co-sharer is in possession of each part of the property. He, thus, contends that merely because the revenue entries are in favour of respondent No.1-plaintiff, would not be enough in granting the injunction, as has been done by the Courts below. He, thus, contends that the judgments

and decree passed by the Courts below cannot sustain and deserve to be set aside.

3. Notice of motion.

4. Mr. Ranjodh Singh Sidhu, Advocate, accepts notice on behalf of caveator-respondent No.1.

5. Caveat discharged.

6. Counsel for respondent No.1 asserts that the judgments as passed by the Courts below are based upon the settled preposition of law, especially in the light of the judgments of this Court, where it has been held that where a co-sharer is in exclusive possession of the land to the extent of his share, he is entitled to injunction with regard to protection of the possession. He contends that in the light of the said judgments and the revenue records which clearly establish the possession of respondent No.1-plaintiff to the extent of his share, the judgments and decree as passed by the Courts below, cannot be faulted with and therefore, the appeal deserves dismissal.

7. I have considered the submissions made by learned counsel for the parties and with their able assistance, have gone through the impugned judgments.

8. It is not in dispute that both the Courts below have given a concurrent finding that respondent No.1-plaintiff is in possession of the land to the extent of his share in the joint property.

9. If that be so, keeping in view the law settled by this Court, no interference in this appeal is called for, especially in the light of the Full Bench judgment of this Court in *Bhartu Versus Ram Sarup, 1981 PLJ*

204 as also the Division Bench judgment of this Court in *Sant Ram Nagina Ram Versus Daya Ram Nagina Ram*, AIR 1961 Punjab 528.

10. No other point has been argued by the counsel for the parties.

11. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

12. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

13. In the light of the dismissal of the appeal, the application for stay i.e. CM No.4568-C of 2016, stands disposed of as infructuous.

April 25, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE