

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

RSA-1943 of 2016 (O&M)

Date of decision: 25.04.2016

Kundan Singh and another

...Appellants

Versus

Gram Panchayat Village Alipur Jattan, Patiala

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ranjan Lakhanpal, Advocate
for the appellants.

Jitendra Chauhan, J. (Oral)

The suit for permanent injunction filed by the plaintiff/appellants (for short 'the appellants') was dismissed by the trial Court vide judgment and decree dated 16.10.2014.

2. Aggrieved against the findings of trial Court, the appellants filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 18.12.2015.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the

instant appeal at the behest of the appellants.

4. The sole argument raised by the learned counsel is that the appellants are in continuous possession of the suit land measuring 24 kanals since they had migrated to India after partition from Pakistan. The respondents have got no interest, title or right over the suit property.

5. Heard, the learned counsel for the appellant and perused the record carefully.

6. The possession of the appellants over the disputed property is not in dispute, however, there is nothing on record to prove their ownership. Appellant No.1 Kundan Singh tendered copy of jamabandi for the year 1969-70, Ex.P2 and copy of the jamabandi for the year 1974-75, Ex.P3, wherein the ownership of the suit land vest with gram panchayat and the appellants were shown to be 'gair marusi' and thus, it is amply proved on record that they were only lessees on the suit land. The appellants themselves admitted that they were paying chakota @ 12/- per acre. Thus, the documents relied upon by the appellants weakens the strength of their own case and it has been duly proved on record that their possession is unauthorized and illegal. It is settled principle of law that no injunction can be granted against

the true owner in favour of a person in unlawful possession.

Reliance can be made to **Mahadeo Savlaram Shelke and Ors.**

Vs. **Pune Municipal Corporation and another**, (1995) 3 SCC

33, wherein Hon'ble the Supreme Court has held that no injunction could be granted against the true owner at the instance of person in unlawful possession. In the instant case, possession of the appellants is unlawful and therefore, they cannot seek any injunction against the rightful owner i.e. Gram Panchayat.

Therefore, this Court feels that there is no merit in the present appeal and the findings recorded by the Courts below neither suffer from any perversity or illegality nor any material point has been left un-addressed.

7. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeal. Hence, no interference is called for.

Dismissed.

25.04.2016

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(JITENDRA CHAUHAN)
JUDGE