

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

**RSA No. 4866 of 2013 (O&M)  
Date of decision: 05.05.2016.**

Balwant Singh & Others

.....Appellants

Versus

The State of Punjab & others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Karamjeet Brar, Advocate for  
Mr. Harkesh Manuja, Advocate  
for the appellants.

**JITENDRA CHAUHAN, J.**

Having failed before both the Courts below, the plaintiffs have filed this Regular Second Appeal against the judgment and decree dated 12.06.2012, passed by Civil Judge (Sr. Division), Ferozepur (for short 'the trial Court') and; the judgment and decree dated 08.08.2013, passed by District Judge, Ferozepur (for short 'the lower Appellate Court').

In brief, the plaintiffs filed suit for permanent injunction against the State of Punjab and others. It was pleaded by the plaintiffs that they are in possession of the suit land situated in the revenue estate of village Langeana Tehsil & District Ferozepur as Gair Marusian for the last more than 15 years and the suit land originally belongs to the Provincial Government. Earlier, the suit land was full of wild vegetation and unfit for cultivation but the plaintiffs made the suit land

fit for cultivation after spending a huge amount. The plaintiffs have sown valuable crops over the suit land. The defendants are bent upon to dispossess the plaintiffs from the suit land. Hence, the suit.

Upon notice, the defendants appeared and filed written statement. The stand of the defendants was that the State Government is the owner in possession of the suit land for the last several decades and Khasra Girdawri has always been in favour of the Government. The plaintiffs have got no concern with the suit land and by manipulating the revenue record, the plaintiffs want to grab the suit land. The plaintiffs have not mentioned as to when and how they came into possession over the suit land. The plaintiffs being in illegal possession are not entitled to any injunction. The suit land has already been declared as 'protected forest' vide Punjab Government Notification dated 03.05.1958. The forest department has planted trees on the suit land.

After appraisal of the evidence, the learned trial Court dismissed the suit holding that the plaintiffs have failed to prove their possession over the suit land. It has not been proved by the plaintiffs as to when the appellants came into possession over the suit land. Even otherwise, the revenue record was found to be manipulated by the plaintiffs. The defendants proved muster roll, Ex. D 2 and the notification, Ex. D1 whereby the suit land has already been handed over to the forest department.

Feeling aggrieved, the plaintiffs filed an appeal before the

lower Appellate Court which was dismissed vide judgment and decree dated 08.08.2013, passed by the District Judge Ferozepur. Hence, the present Regular Second Appeal at the behest of the plaintiffs.

On behalf of the appellants, it is contended that both the Courts below have committed grave error in dismissing the suit of the plaintiffs. Once the plaintiffs were found to be in possession of the suit land, they had every right to seek injunction against their forcible dispossession. The revenue record depicted that Karnail Singh, father of the plaintiffs was in possession of the suit land. After death of Karnail Singh, the plaintiffs being the legal heirs of Karnail Singh stepped into his shoes. This aspect of the matter has not been considered by both the Courts below and the same has resulted into miscarriage of justice.

I have heard the learned counsel for the appellants and have gone through the case file.

In this case, the plaintiffs are seeking injunction against the defendants on the basis of their settled possession over the suit land. However, there is a concurrent finding of fact recorded by both the Courts below that the plaintiffs have failed to prove their possession over the suit land. Even the plaintiffs could not prove as to when and how the appellants came into possession of the suit land. Though, the revenue record depicted the father of the plaintiff to be in possession of the suit land but the presumption of truth attached to the revenue record is rebuttable. The reflection of name of father of the plaintiff till date in

the revenue record even after his death dispels the presumption of truth attached to the revenue record. In Haari 2007, the land is shown to be Gair Mumkin whereas, in Sauni 2007, the land has been shown to be sown by the plaintiffs. This is strange as to how the land becomes cultivable in three months. This fact shows that the revenue record has been manipulated by the plaintiffs in connivance with the revenue officials. Further, there is a finding recorded by the trial Court that if the nature of the land is recorded as Gair Mumkin and Banjar Qadim, in such a situation how the plaintiffs came into possession over the suit land. Otherwise also, the argument raised relates to the question of fact only and no substantial question of law is involved in the present Regular Second Appeal. There is no misreading or mis-interpretation of the evidence. Consequently, the present appeal is dismissed.

5.5.2016  
SN

**(JITENDRA CHAUHAN)**  
**JUDGE**