

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4220 of 2016 (O&M)
Date of Decision : 22.08.2016

Sanjiv Kumar and others

....Appellants

Versus

Padam Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Aggarwal, Advocate
for the appellants.

Mr. Sourabh Goel, Advocate
for the caveator.

Surinder Gupta, J.

Notice of motion.

Mr. Sourabh Goel, Advocate, who is appearing for caveator,
accepts notice on behalf of respondent no. 3.

Heard.

Plaintiffs-appellants filed suit seeking the relief that they are lessees in possession of suit land as fully described in para 24 (i) of plaint; secondly, for rectification in entries in revenue record since the year 1985-86, to reflect plaintiffs as lessees in possession of suit land; thirdly, for grant of perpetual injunction restraining defendants from dispossessing plaintiffs from suit land in an illegal and unlawful manner and also from changing nature of suit land either by creating third party interest by way of sale, mortgage, gift, by raising construction thereon or otherwise.

Defendants filed application under Order VII Rule 11 CPC raising three pleas for rejection of plaint. Firstly, that suit is not properly valued for the purpose of court fee and jurisdiction. This plea was rejected by Court below. Secondly, that plaintiffs have no cause of action to file the

suit but on perusal of pleadings and the case as projected by plaintiffs, learned Civil Judge (Junior Division), Faridabad found this plea without any merit and discarded the same. On third plea raised by defendants, that suit of plaintiffs was barred by limitation, learned Civil Judge (Junior Division) observed that suit seeking correction of revenue record beyond period of three years is barred by limitation. This plea of defendants was accepted and plaint was ordered to be rejected.

Not satisfied, plaintiffs-appellants filed appeal, which was also dismissed by Additional District Judge, Faridabad vide detailed order dated 16.03.2016.

I have heard learned counsel for parties and perused the paper-book and documents on record.

Plaintiffs are seeking three reliefs as discussed above in their suit and Courts below have rejected the plaint by considering one relief that plaintiffs are seeking rectification of revenue record after 1985-86. As to whether plaintiffs are lessees of suit property or not and the revenue record is required to be amended, if they succeed in proving their pleas, is a question of fact. Plaintiffs are also seeking the relief of injunction claiming their possession over suit property and Courts below have not looked into this aspect. Ist Appellate Court has travelled beyond the scope of application by discussing number of facts without their being any pleading of defendants-respondents to this effect.

Learned counsel for respondent no. 3-caveator has argued that in fact respondents have purchased suit property from plaintiffs, who never disclosed the alleged lease at the time of sale or that their possession over suit property is that of lessees. After getting crores of rupees towards sale

consideration they filed the suit to defraud defendants. The plea raised by learned counsel for defendants-respondents may have merit but same is to be proved before the Court after recording evidence. Reasons as put-forth by Courts below while rejecting the plaint on the face of it are perverse and not tenable in the eyes of law. It rather shows casual approach of Courts below, which have failed to appreciate the facts of the case while passing impugned orders. This appeal has merit and is accepted. Consequently, orders of Courts below are set aside.

Parties are directed to appear before District Judge, Faridabad on 07.09.2016. Learned District Judge will entrust the case to competent Court of jurisdiction for trial and disposal in accordance with law.

August 22, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No