

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

RSA No.4386 of 2015
Date of decision : 25.07.2016

Rashpal Singh and others

...Appellants

Versus

Joga Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. B.S. Jaswal, Advocate for appellants.

AMIT RAWAL, J. (Oral)

The appellant-defendant is aggrieved of the concurrent findings of fact, whereby suit of the respondent-plaintiff has been decreed and defendants have been restrained from interfering into the peaceful possession, except in due course of law.

Mr. B.S. Jaswal, learned counsel appearing on behalf of appellant-defendant submits that as per the order of consolidation dated 14.05.1968, the property in dispute had been ordered to be in the name of the defendants. Simplicitor suit was for injunction. The finding of ownership is not on the basis of the oral and documentary evidence but ought to have been confined prayer to injunction part instead of issue of the ownership. The appellants are co-sharer though name is not reflected in the jamabandi, therefore, suit for injunction at the behest of the co-sharer was not maintainable and thus urges this Court for formulation of substantial question of law as culled out in the

memorandum of appeal.

I have heard learned counsel for the appellants and appraised the paper book.

No doubt the trial Court and the Lower Appellate Court having given passing reference to the documentary evidence, had an occasion to give findings with regard to ownership in the absence of issue of ownership but the decree does not envisage of any such finding. It is only the restraint against the defendant from forcibly interference and dispossession of the respondent-plaintiff except in due course of law. Jamabandi could not show the ownership of the defendants. Be that as it may, since the suit was confined to injunction part, Courts below ought not to give findings on ownership. Thus, the findings of ownership are treated to be Obiter.

There is another aspect of the matter that the order of consolidation was never reflected in the revenue record.

With the aforementioned observations, I do not find any reasons, much less, appeal does not want any interference as the judgment and decree qua injunction part are based upon the appreciation of oral and documentary evidence.

For the foregoing reasons, appeal stands dismissed.

25.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No