

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

**RSA No. 1878 of 2014 (O&M)
Date of decision: 28.04.2016**

Shadi Ram and others

..... Appellants

Versus

Rattan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Randhawa, Advocate
for the appellants.

JITENDRA CHAUHAN, J.

The defendants have challenged the concurrent findings of facts recorded by both the Courts below vide judgment and decree dated 31.10.2011, passed by Additional Civil Judge, Guhla and; judgment and decree dated 22.11.2013, passed by Additional District Judge, Kaithal.

In brief, the plaintiffs filed suit for permanent injunction restraining the defendants from dispossessing them from the suit land or a part thereof and also from cutting and removing the trees standing on the suit land illegally and forcibly. It was pleaded by the plaintiffs that they are joint owners in exclusive possession of the land mentioned in para no. 1 of the plaint being co-sharers in the joint khewat land as the suit land is part of joint khewat land. They have been cultivating sugarcane crop in the suit land and have planted safeda trees, deg trees, nasura trees, on a part of the suit land. The defendants are totally strangers qua the suit land. The defendants are threatening to cut and remove the trees planted by the plaintiffs standing on

the suit land to which they have no right, title or interest to do so. The defendants have been repeatedly requested to desist from their illegal act, but the defendants are adamant. Hence, the suit.

Upon notice, the defendants appeared and filed written statement contesting the suit of the plaintiffs by pleading that they were in exclusive possession of the land in dispute as co-sharers since their fore-fathers and plaintiffs had no concern with the suit land and never remained in possession on any inch of the suit land. The name of the predecessor-in-interest of the asnwering defendants was recorded to be co-sharer upto the jamabandi for the year 1973-74 but in the jamabandi for the year 1978-79, the mutation No.3987 and 3989 were incorporated in the column of remarks incorporated on the basis of impugned order dated 15.10.1981 of consolidation officer, Karnal and changed the ownership of the defendants and other co-sharers in respect of the suit land and other land of which the consolidation officer, Karnal has no right to change the ownership of any co-sharer.

After appraisal of the evidence, the trial Court held that the plaintiffs were co-sharers in the suit land. Consequently, the suit was decreed vide judgment and decree dated 31.10.2011, passed by Additional Civil Judge (Senior Division), Guhla. A decree for permanent injunction was passed in favour of the plaintiffs.

Feeling dissatisfied with the judgment and decree dated 31.10.2011, the defendants filed appeal before the lower appellate Court which was dismissed vide the judgment and decree dated 22.11.2013. The

Lower Appellate Court held that the appellant/defendants have no right to interfere into the possession of the plaintiff/respondents.

Still feeling aggrieved, the present regular second appeal has been filed by the defendants assailing the aforesaid judgments and decrees.

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

As per Sections 23 and 24 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, there is presumption of transfer of possession from the date ordered by the Consolidation Officer. As per Ex.P 1 and Ex. P 2, the Consolidation Officer had passed order dated 15.10.1981 in favour of the plaintiffs holding them to be the owners of the property. Presumption of truth is attached to the revenue record. The appellant/defendants could not lead any evidence to dispel the presumption of truth attached to the revenue record. The findings of facts recorded by the Courts below are based on correct appreciation of evidence. There is no question of law, much less substantial question of law, in the present regular second appeal. There is no misappreciation or misreading of evidence by the Courts below.

Consequently, the appeal is dismissed.

April 28, 2016
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(JITENDRA CHAUHAN)
JUDGE