

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

R.S.A No.3645 of 2014(O&M)
Date of decision :20.12.2016

Partap Singh and others

.....Appellants

Versus

Municipal Committee, Farrukhnagar, District Gurgaon

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Amit Kumar Jain, Advocate
for the appellants.

DARSHAN SINGH, J. (Oral)

The present appeal has been directed against the judgment and decree dated 24.03.2014 passed by the learned Additional District Judge, Gurgaon, whereby the appeal filed by the appellants-plaintiffs against the judgment and decree dated 18.11.2013 passed by the learned Additional Civil Judge (Sr. Division), Pataudi, has been dismissed.

2. The appellants-plaintiffs was claiming that they are owner in possession of the land in dispute detailed and described in para no.2 of the plaint. The said land was given to their ancestors by the then Nawab of Farukh Nagar in the year 1857. They have been doing the work of colouring of leather of dead animals prior to the year 1857. The plaintiffs are owner in possession of the suit land since then. The civic facilities/amenities have also been provided to them. The suit property was never used for any public purpose. Rather, the appellants are in possession thereof as absolute owners.

3. The suit has been contested by the defendant-Municipal Committee on the grounds *inter alia* that the defendant is owner of the suit property comprised of Killa no.12 of Rect. No. 230 as per the record and the land is being used as Marghat and colouring of the leather. It was further pleaded that the plaintiffs have no right, title or interest in any manner in the suit property.

4. From the pleadings of the parties, the following issues were framed by the learned trial Court:-

1. Whether the plaintiffs are owners in possession of the suit property?OPP
2. If issue no.1 is proved, whether the plaintiffs are entitled to declaration and injunction, as prayed for?OPP
3. Whether the present suit is not maintainable in the present form?OPD
4. Whether the plaintiffs have no cause of action to file the present suit?OPD
5. Whether Civil Court has no jurisdiction to entertain the present suit?OPD
6. Whether the plaintiffs have not come to the Court with clean hands, if so to what effect?OPD
7. Relief.

5. On appreciation of the evidence and the contentions raised by learned counsel for the parties, the learned trial Court dismissed the suit of the appellants-plaintiffs with costs vide impugned judgment and decree dated 18.11.2013.

6. Aggrieved with the aforesaid judgment and decree, the appellants-plaintiffs preferred the appeal. The same has also been dismissed by the learned Additional District Judge, Gurgaon, vide impugned judgment and decree dated 24.03.2014. Hence this Regular Second Appeal.

7. I have heard Mr. Amit Kumar Jain, Advocate, learned counsel for the appellants and have carefully gone through the paper book.

8. Initiating the arguments, learned counsel for the appellants contended that the land in dispute was allotted to the predecessors of the

plaintiff way back in the year 1857. Since then, the appellants-plaintiffs are owner in possession of the suit property. He contended that the revenue entries have been wrongly recorded in favour of the defendant-Municipal Committee.

9. I have duly considered the aforesaid contentions.

10. The appellants-plaintiffs are coming to the Court to seek the declaration on a specific ground that the suit property was allotted to their ancestors by Nawab of Farukh Nagar in the year 1857 for the purpose of colouring of leather of dead animals and since then, they are owner in possession of the suit land. They have further alleged that the revenue entries in favour of the defendant are wrong. The only document brought on record by the appellants is the copy of Wazib Ul Arj (Ex.PB-2). The appellants-plaintiffs have not brought on record any evidence to show that the person to whom the land was allotted had any relation with the present appellants. No pedigree table or any other document has been brought on record by the appellants to establish their link/relation with those persons.

11. The appellants-plaintiffs have also not adduced any evidence to connect the suit property with the property allegedly allotted by the Nawab of Farukh Nagar to the alleged predecessors of the plaintiffs in the year 1857. In the absence thereof, the plea raised by the plaintiffs that the land in dispute was allotted to their predecessors by the Nawab of Farukh Nagar is not established. Moreover, the revenue record i.e. copy of jamabandi for the year 2001-02 Ex.D-1 shows the defendant-Municipal Committee to be the owner of the suit property. No evidence has been adduced by the appellants-plaintiffs to rebut the presumption of truth attached to the jamabandi entries.

Earlier, the land in dispute was recorded as Shamlat Deh and after the

creation of the municipality in the area, the same has rightly vested in the defendant-Municipal Committee. There is also no evidence to prove that the suit property was exclusively used by the appellants for their individual purpose. But, the material available on record indicates that the suit property was utilized for common purposes by the General Public.

12. Thus, I have no reason to differ with the well reasoned concurrent findings recorded by the learned Courts below and the conclusion arrived at by the learned Courts below does not suffer from any legal infirmity or perversity.

13. Consequently, no question of law, much less, the substantial question of law arises in the present appeal.

14. Therefore, the present appeal being devoid of merits, is hereby dismissed with costs.

20.12.2016

S.khan

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

**(DARSHAN SINGH)
JUDGE**