

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

C.M. NO.11700 C OF 2014 &

R.S.A. NO.4964 OF 2014

DATE OF DECISION: MAY 26, 2016

Rakesh and others

.....Appellants

VERSUS

Jagdish and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Ashok Kaushik, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal, filed by defendant Nos.8 to 10 (appellants herein), is to the judgement and decree dated 20.08.2011 passed by Additional Civil Judge (Senior Division), Palwal, whereby suit for permanent injunction filed by respondent-plaintiff, Jagdish son of Het Ram, restraining the appellant-defendants and other proforma respondents from dispossessing him from the land measuring 10 kanals 6 marlas i.e. half share of the total land measuring 20 kanals 12 marlas, as detailed in the head note of the suit situated at Village Kushak, Tehsil Palwal, District Faridabad and also for restraining the proforma respondent-defendants from alienating the suit land etc., has been decreed, appeal against which preferred by appellant-defendant Nos.7 to 10 has been dismissed by the Additional

District Judge, Palwal, on 17.07.2014.

It is the contention of learned counsel for the appellants that the judgements and decree as passed by the Courts below cannot sustain as the appellants are in possession of the suit land in the light of the sale deeds dated 28.10.2005 and 11.11.2005. He contends that both these sale deeds specifically state that the appellants have been put in possession of the suit land and, therefore, the findings as recorded by the Courts below cannot sustain and deserve to be set-aside.

I have considered the submissions made by learned counsel for the appellants and with his assistance have gone through the impugned judgements.

Initially, as per the pleadings, the suit property, which measures 10 kanals and 6 marlas, was purchased by respondent No.1-plaintiff vide an agreement to sell. However, when the said agreement was not given effect to, a suit for specific performance of the agreement to sell with a relief of permanent injunction and possession was filed by the respondent-plaintiff, which ended in a compromise under Order 23 Rule 3 C.P.C. On the basis of said compromise dated 31.07.2003 (Ex.P2), the Additional Civil Judge (Senior Division), Palwal, passed an award dated 12.11.2005 (Ex.P3). So far as possession is concerned, the same already stood delivered on 07.03.2003. However, respondent-defendant Nos.1 to 3 did not abide by the award, which forced the respondent-plaintiff to file an execution application. In the said execution application, where it was claimed that the sale deed has not been executed and got registered by respondent-defendant Nos.1 to 3 in favour of the respondent-plaintiff, objections were filed by appellant-defendant Nos.8 to 10, namely, Rakesh, Virender and Devender. These

objections were dismissed on 02.08.2008 (Ex.P40). The plea, which had been taken by the appellants was that the sale deed dated 20.10.2005 stands executed in their favour by Hira Lal. These objections were rejected and the said sale deed dated 20.10.2005 was held to be null and void. Appeal against the said rejection of the objections was preferred by the appellants, which was dismissed by the Additional District Judge, Faridabad, on 19.03.2009 (Ex.P5). Against the said order, R.S.A. No.13 of 2009 was preferred by the appellants, which was also dismissed by this Court vide order dated 28.07.2009 (Ex.P-7). The sale deed No.136 dated 09.04.2009 (Ex.P10) was, however, got executed and registered in favour of respondent No.1-plaintiff regarding the suit land through the process of Court. The other sale deed bearing No.4241 dated 17.02.2005 stands proved by the respondent as Ex.P9. The respondent has further been able to place on record the registered sale deed No.4747 dated 08.12.2003 (Ex.P8), which shows that father of the respondent, Het Ram, had purchased 3 kanals 9 marlas of land from Ramwati. All these documents clearly show that they were not only owners of the said property but were in possession thereof, especially in the light of the compromise, Ex.P2. It may be added here that all these entries have been made and incorporated in the revenue record vide jamabandies Exhibits P-11 and P-12. This further fortifies the fact that the respondent is in possession of the suit land.

In view of the above factual position, as has come into existence after consideration of the pleadings and the evidence brought on record by the parties, the findings, as recorded by the Courts below, holding respondent No.1-plaintiff to be in possession of the suit land and, thus, entitled to the injunction as prayed for, cannot be faulted with.

No other point has been argued by learned counsel for the appellant-plaintiff.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

Since the main appeal stands dismissed, C.M. No.11700-C of 2014 for staying the operation of the impugned judgement and decree is also dismissed.

May 26, 2016
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE