

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA No. 514 of 2014 (O&M)

Date of decision:3.5.2016

Jaspal Singh and others

... Appellants

versus

Labh Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.G.S.Nagra, Advocate,
for the appellants

1. To be referred to the Reporters or not? Yes
2. Whether the judgment should be reported in the Digest? Yes
- ...

AMOL RATTAN SINGH, J. (Oral)

1. This appeal has been filed by the judgment debtors in a suit filed by the respondent-plaintiff, seeking a decree of permanent injunction against the appellants-defendants, that they be restrained from interfering in her peaceful possession of the land, of which she is owner in possession. The dispute is with regard to 8 kanals of land, bearing Khata No.218/456, Khasra No.22/11, as entered in the 'jamabandi' for the year 2004-05, situated in Village Sangatpura, Tehsil Ajnala, District Amritsar.

2. The learned Courts below, after discussing the entire evidence, including the documentary evidence, as also the oral testimonies on behalf of both the plaintiff and the defendants, came to the conclusion that the respondent-plaintiff earlier had two decrees in her favour, one of them dated 17.8.1982, against one Amar Singh. In execution of the said decree, the respondent-plaintiff had been ordered to be put in actual physical

possession of the suit land, on 19.12.1984, which was forcibly entered into by Amar Singh. Pursuant to the execution of that decree, a report (Ex.P2) was entered in the revenue record, showing that she has been put in physical possession of the suit land. It was argued before the Courts below that, as a matter of fact, it was only symbolic possession and not physical possession, that was given to her. To that effect, revenue entries showing the land to be in possession of Gurdial Singh, i.e. one of the appellants-defendants, were relied upon.

Despite the aforesaid revenue entries, the learned Courts below found that in a second suit filed by Parladh Singh, one of the appellants-defendants herein, against respondent-plaintiff Labh Kaur, seeking a declaration of ownership and possession, a finding had been recorded to the effect that he was neither owner, nor in possession of the suit land. The said Parladh Singh is also a brother of Gurdial Singh, as can be seen from a perusal of the memo of parties. The said suit of Parladh Singh was, consequently, dismissed.

3. Therefore, on the basis of the said decrees, the suit of the plaintiff (present respondent herein) was decreed by the Courts below and a decree of permanent injunction was issued against the present appellants, restraining them from interfering in the respondent-plaintiffs' peaceful possession of the suit land.

4. Before this Court, learned counsel for the appellants submits that, as a matter of fact, the suit filed by the respondent-plaintiff was only for seeking permanent injunction and not for possession. If the respondent-plaintiff had been declared to be the true owner of the suit land in previous

litigation, she needed to file a suit for possession and not for permanent injunction. He submits that Parladh Singh has been continuously shown in the revenue entries, to be in possession and the plaintiffs' (respondent herein) suit only being one seeking permanent injunction, the learned Courts below have erred in decreeing the suit, as a presumption is raised in favour of the revenue entries.

5. Having heard learned counsel for the appellants, there is no doubt that there is a presumption in favour of revenue entries, as per Section 44 of the Punjab Land Revenue Act, 1887; however, the said presumption is rebuttable and when the respondent-plaintiff was declared to be owner in possession of the suit land, in the previous round of litigation, and that was instituted by Parladh Singh (presently Appellate no.3) against the respondent-plaintiff, in which Parladh Singh was specifically held to be not in possession of the suit property, the presumption in favour of the revenue entries would stand rebutted by the decree itself.

6. Obviously, the appellants-defendants are trying to gain possession over the suit land, time and again, one way or another, over a number of years, at the expense of its true owner, i.e. the respondent-plaintiff, and are continuously harassing her.

7. In view of the above, finding no merit in this appeal, it is dismissed in limine, with costs of Rs.10,000/-, to be deposited with the Punjab State Legal Services Authority.

3.5.2016
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(AMOL RATTAN SINGH)
JUDGE