

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR No.1751 of 2016 (O&M)

Date of decision: 13.12.2017

Darshan Singh

..... Petitioner

Versus

Baljit Singh Sodhi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. J.S. Bhandohal, Advocate
for respondent No.3.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in the revision petition against the order dated 30.10.2015 dismissing the suit filed by him under Section 6 of the Specific Relief Act, 1963.

Plaintiff had claimed that he was lessee under the Gram Panchayat for a period of 10 years with respect to land measuring 34 bighas w.e.f. 26.03.2003 to 25.03.2013. It was further pleaded by the plaintiff that he deposited the lease money as agreed for seven years and thereafter when the plaintiff wanted to deposit the remaining amount, it was not accepted. The plaintiff approached BDPO to get the amount adjusted but the BDPO ordered deposit of the leased amount only on 27.08.2009.

The plaintiff further pleaded that he has been forcibly dispossessed in April, 2011. It is not in dispute that the remaining lease money was also deposited by the plaintiff.

The plaintiff prayed that he may be restored possession as he has been forcibly dispossessed.

Defendants on the other hand, contested the suit on the ground that the lease was only for a period of seven years which has expired and they have leased out the property further to someone.

Learned trial Court framed the following issues:-

1. Whether the plaintiff is entitled for possession on the basis of an agreement entered into between the plaintiff and the Gram Panchayat of village Kheri Gourian dated 26.3.2003 as detailed in the head note of the plaint?OPP.
2. Whether the plaintiff has no locus standi to file the present suit?OPD.
3. Whether the plaintiff has not come to the Court with clean hands and suppressed the material facts from the Court?OPD.
4. Whether the suit of the plaintiff is under valued?OPD.
5. Relief.

After appreciating the evidence available on the file, learned trial Court dismissed the suit.

The jurisdiction of the Civil Court is barred under Section 13 of the Punjab Village Common Lands (Regulations) Act, 1961. The Court further held that the plaintiff has failed to prove the resolution through which the plaintiff was leased out land for a period of 10 years. The trial Court further refused to grant restoration of the possession on the ground that during the pendency of the suit, the lease period has expired and therefore, the relief sought in the suit stands frustrated. Learned Court

further noticed that the Gram Panchayat has leased out the property to someone else and the plaintiff can claim damages.

I have heard learned counsel for the parties at length and with their able assistance gone through the documents filed.

In the considered opinion of this Court, the reasons assigned by the Court to dismiss the suit are wholly irrelevant for the purpose of decision of the suit under Section 6 of the Specific Relief Act, 1963. The only issue which requires determination in a suit under Section 6 of the Specific Relief Act is whether a party has been dispossessed forcibly and illegally or not. The Court has not adverted to the aforesaid issue.

In this case, the plaintiff was not claiming any right, title or interest in the property. The plaintiff was only claiming that he is a lessee of the land in dispute and therefore, entitled to retain the possession for a period of ten years out of which he was allowed to remain in possession for seven years. No evidence has been produced on the file by the Gram Panchayat to prove that how and in what manner and under what authority, the plaintiff was dispossessed from the land. The remaining reasons given by the Court i.e. resolution leasing out the land not being proved and the contract for lease having elapsed are again alien to the scope of the present suit.

It is not in dispute that the plaintiff was leased out land in 2003. The dispute between the parties is whether the lease was for a period of ten years and seven years.

Still further, if the plaintiff was dispossessed during the currency of lease or even thereafter forcibly, the suit under Section 6 of the Specific Relief Act was maintainable because the only issue which needs

determination in such suit by the Court is whether a party has been forcibly dispossessed or not. If the Court records a finding that the party has been dispossessed, it is bound to restore possession.

Taking into consideration these facts, the impugned judgment is set aside and the case be remanded back to the learned trial Court to re-decide the issue whether the plaintiff has been forcibly dispossessed or not.

After determining this issue, the Court would pass an appropriate order in accordance with law.

Revision petition is disposed of.

Parties through their counsel are directed to appear before the learned trial Court on 12.01.2018.

13.12.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No