

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 3995 of 2013(O&M)

Date of decision : 17.11.2017

Kuldeep Singh and others Appellants

versus

Balwant Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Deepak Verma, Advocate
for Mr.K.K.Rajput, Advocate for the appellants.

AMIT RAWAL, J. (Oral)

Appellant-defendants have come up in appeal against the concurrent finding of fact whereby the suit of the respondent-plaintiffs has been decreed restraining the appellant-defendants not to interfere in any manner in the peaceful possession of the appellant-plaintiffs in the plot marked as ABCD as shown in the site plan attached with the plaint.

Mr. Deepak Verma, learned counsel appearing on behalf of the appellants submits that the respondent-plaintiffs has not been able to establish long possession in order to make out a case of permanent injunction. He further submits that the land is situated in Lal Lakeer and until and unless the possession of the land is not established, no injunction can be granted. He further submits that the judgment and decree passed by the Courts below are based on conjectures and surmises. In the absence of any proof of possession the Court ought not to have granted injunction.

Thus, the findings of the Courts below being perverse are liable to be set

aside. It is the specific stand of the appellant-defendants that the plaintiff-respondents could not be given possession of the entire suit property but part thereof.

I have heard learned counsel for the appellant-defendants and perused the record and am of the view that there is no force in the arguments of learned counsel. In this case a Kanungo was appointed as local commissioner who demarcated the area in question and submitted his report on 5.5.2007. As per his report the land in dispute belongs to Gram Panchayat and no construction had been raised thereon by the respondent-plaintiffs. Rather their possession had been found to be within the Lal Lakeer of the village. His report Ex.P4 also shows that the respondent-plaintiff has his house in the village and found to be in possession of the part of the suit property whereas the averment of the appellant-defendant before this Court and before the Courts below had been that they were in possession of the whole of the suit property. The local commissioner's report found the respondent-plaintiffs to be in possession and rightly so and his report had been believed by the trial Court and this finding had been upheld by the Lower Appellate Court, for a person found to be in long and settled possession, can seek injunction qua possession against him.

As a result of the aforementioned observations, the findings of the Courts below are upheld and judgment and decree are affirmed. The appellants shall be at liberty to establish their ownership and claim the residuary relief, if any.

No ground for interference is called for.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 17, 2017
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No