

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

**RSA No.4034 & 4050 of 2015 (O&M)
Date of Decision:25.7.2017**

1. RSA No.4034 of 2015

Mohan Lal

... Appellant

Versus

Dal Chand

... Respondent

2. RSA No.4050 of 2015

Ram Narain

... Appellant

Versus

Diwan Chand & Anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ajay Kumar, Advocate for
Mr.Digvijay Nagpal, Advocate for the appellant (s)

RAJIV NARAIN RAINA, J.

1. This order will dispose of RSA Nos.4034 and 4050 of 2015 since both the matters arise out of common judgments and decrees of the courts below.

2. On the first date of hearing i.e. on 21st of December, 2015, none appeared for the appellant(s) while Ms. Anju Arora, learned counsel appeared for the Caveator. The matters were adjourned to 1st April, 2016. On 1st April, 2016, the appeals were adjourned to 7th October, 2016 by order. When the matters came up for hearing on 7th October, 2016, still no one appeared for the appellant(s) while respondent-Caveator was

represented. This Court noticed the earlier position and dismissed the matters for non-prosecution. After a delay of 185 days, an application was presented for condoning the delay in filing the application for restoration of the appeals. This Court gave further indulgence and accepted the application and recalled the order dismissing the appeals for non-prosecution. The matters were restored to their original number and were ordered to be listed as per Roster.

3. Today, the matters have come before me. Mr. Ajay Kumar, learned counsel appears as next friend and colleague of the arguing counsel for the appellant(s) and makes a request for adjournment on the ground that the arguing counsel is not available. He expresses his inability to address arguments.

4. I have examined the paper-books of both the cases. Both the suits relate to the same Rect. No.152. The first suit had been filed by Dal Chand and the other by Ram Narain. Ram Narain and Dal Chand are opposite parties in the suits. The first suit is for permanent injunction restraining the defendants from causing any interference by the defendants in the room measuring 10'x10' and chowka constructed with pucca bricks over land measuring 2 marlas in the same rectangle number. The second suit filed by Ram Narain is for permanent injunction restraining the defendants from making any type of illegal, unauthorized and unwarranted interference in the possession of the plaintiff or otherwise dispossessing the plaintiff illegally, forcibly and without recourse to law from the land measuring 0-12 marlas comprised in the same rectangle number and further restraining the opposite parties from uprooting or cutting the Tahli trees standing in the land claimed by Ram Narain. The suit filed by Dal

causing any interference into possession of the plaintiff whereas the second suit filed by Ram Narain has been dismissed. Both the suits have been decided by a common order, after the two were consolidated.

5. The learned Additional District Judge, Ferozepur in his judgment dated 3rd November, 2014 has affirmed the findings of the trial court in both the suits and maintained the judgment and decree of the trial court. The reason assigned by the learned first appellate court are contained in operative paragraphs 19 and 20 which read as follows:-

“19.From the perusal of the copy of the registered sale deed Ex.P1, Dal Chand purchased the land measuring 2 marlas 2/21 share out of the total land 1 kanal 2 marlas bearing Rect.No.152 Killa No.11/1(1-2) having khewat no.87 khatoni no.199 as per the jamabandi for the year 1997-98 from Uggar Sain and this fact has been proved on record by Dal Chand PW3 and also proved on record the site plan Ex.P2. The title of the previous owner Uggar Sain has not been controverted by the defendants/appellant. So it has been proved on record that he delivered the possession of 2 marlas of the land to Dal Chand and this fact has been testified by Uggar Sain PW1. But on the other hand, the defendants have not placed on file any site plan in support of their claim qua the land measuring 0 Kanal 12 Marlas in Rect.No.152 Killa No.11/1. The copy of the jamabandi for the year 2007-08 Ex.P4 reflects Dal Chand to be in possession of 2/21 share of the land forming part of khasra no.152/11/1(1-2). At the time of cross examination, DW1

Ram Narain categorically denied the fact regarding construction of room in the disputed land, which is self contradictory of his claim that Dal Chand after taking the forcible possession on the part of the land bearing khasra no.152/11/1 he forcibly constructed the room. The lower court has rightly hold that the defendant Ram Narain has failed to prove by the cogent evidence that there was any interference made by the plaintiff in his property. In this way the lower court has rightly decreed the suit titled as Dal Chand Versus Mohan Lal and also rightly dismissed the suit titled as Ram Narain Versus Diwan Chand.

20.In these circumstances, the arguments advances by the counsel for the appellants Mohan Lal and Ram Narain, are not tenable and the lower court has rightly passed the impugned judgment and decree dated 2.6.2011 after proper appreciation of the evidence on the file. There is found nothing erroneous in the impugned judgment and decree dated 2.6.2011 passed by the lower court. Hence, both the present appeals are found without merit and the same are dismissed with costs. The decree in appeals be drawn accordingly. The copy of this judgment be placed in the appeal titled as Ram Narain Versus Diwan Chand. The record of the lower court be returned alongwith copy of the judgment and that of the appeals be consigned to the Record Room.”

6. I find no illegality, irregularity or perversity in the judgments

any error apparent on the face of record so as to require interference by this Court in these appeals. No question of law, much less a substantial one, arises for consideration of this Court in both the appeals.

7. For the foregoing reasons, both the appeals are held to be without substance and are dismissed.

25.7.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No