

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

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RSA No.1200 of 2017 (O & M)
Date of Decision:04.12.2017

Luxmi Devi

...Appellant

Versus

Shri Jainendra Gurukul

...Respondent

RSA No.1210 of 2017 (O & M)

Ashok Kumar

...Appellant

Versus

Shri Jainendra Gurukul

...Respondent

RSA No.1215 of 2017 (O & M)

Krishan Pal

...Appellant

Versus

Shri Jainendra Gurukul

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Goyal, Advocate
for the appellant (s).

Mr. Adarsh Jain, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

By this common judgment, I shall be disposing of RSA
Nos.1200, 1210 and 1215 of 2017 as common issue is involved.

Plaintiff's Educational Institution filed suits for possession
praying for removal of an unauthorized encroachment over land comprised
in Khasra No.159. Defendants in each case, on the other hand, pleaded that
the property is in their possession since the time of their forefathers.

Plaintiff in order to prove its title, produced copy of jamabandi for the year 2006-2007 as Ex.P-4 on record. It is clear from the reading of the jamabandi that plaintiff's Educational Institution is the purchaser of the property comprised in Khasra No.159.

Both the Courts after appreciating the evidence available on the file, decreed the suits filed by the plaintiff.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below as well as some documents, which has been produced by the counsel during the course of hearing.

Learned counsel for the appellant(s) has submitted as under:-

(i) the plaintiff has not produced on file any evidence to prove its title.

(ii) He has submitted that the property in dispute is a residential property, therefore, revenue record has no relevance.

(iii) He has further submitted that although it is the allegation of the plaintiff that the site plan was prepared after getting the demarcation, however, the same has not been produced.

(iv) He has further submitted that although it is the case of the plaintiff that when the defendants unauthorizedly encroached upon the area, a complaint was made to the police, however, that complaint has not been produced in evidence.

On the other hand, learned counsel for the respondent/caveator has submitted that the plaintiff has positively asserted that the land in dispute is comprised in Khasra No.159. Defendants in the written statement

Still further, the plaintiff while filing a suit has given the exact area, which is under encroachment with specific boundaries. He has further submitted that although the defendants-appellants had pleaded that they are in possession since the time of their forefathers, however, no documentary evidence has been produced on the file to prove their old possession.

I have considered the submissions of learned counsel for the parties. It is not in dispute that the plaintiff has produced on file a copy of jamabandi for the year 2006-2007 Ex.P-4. Jamabandi has a presumption of truth. It is also document evidencing title, although, it is not a document of title. However, in the absence of any other document of title the Court can safely rely upon copy of jamabandi. Jamabandi is prepared by the Revenue Authorities in discharge of their official functions. In the written statement, defendants had just pleaded that the area is in their possession since the time of their forefathers. Defendants did not claim any title. Defendants failed to prove their old possession as no document was produced on the file. Although, learned counsel for the appellant has argued that with regard to residential property for proving title, revenue record cannot be relied upon, however, in the considered opinion of this Court, once a proper revenue record is being maintained by the revenue officials in discharge of their official duties under the Punjab Land Revenue Act, a copy of jamabandi cannot be ignored.

Next submission of learned counsel for the appellant(s) is that demarcation report and the complaint to the police has not been produced. Demarcation report and complaint to the police would not be documents of title. In this case, defendants have failed to produce any evidence on file

either to prove their ownership or to prove their old possession.

Taking into consideration the concurrent findings of fact arrived at by the Courts, which is not shown to be either result of misreading of evidence or non-consideration of evidence, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, these regular second appeals are dismissed.

04.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No