

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

RSA No.2772 of 2017 (O&M)

Date of decision : 10.11.2017

Gopi Ram and others

...Appellants

Versus

Kanta Devi (deceased) through her LRs

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.D. Bawa, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

The defendants are in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

The plaintiff had filed a suit for permanent injunction restraining the defendants from interfering into the possession of the plaintiff forcibly without recourse to the law.

Both the Courts below have decreed the suit filed by the plaintiff. Both the Courts have relied upon an earlier inter-parties judgment in which the predecessor of the plaintiff was held to be in possession.

Learned First Appellate Court has held that the appellants if has any title, he shall be get it decided in the appropriate proceedings because the suit is only for permanent injunction. It is not disputed before me that in earlier litigation between the parties, predecessor of the plaintiff was held to be in possession.

Learned counsel for the appellants has vehemently submitted that thereafter pursuant to the correction by the revenue authorities, which is known as *fard badar*, appellant has entered into possession. He has submitted that order of correction of the revenue record has been upheld upto the Single Bench, although Letter Patents Appeal is pending, therefore, it must be held that the plaintiffs are not in possession.

In the considered opinion of this Court, the argument of the learned counsel is not correct. Once in the previous litigation, defendants-appellants have not been found to be in possession and such judgment and decree have become final, the defendants-appellants before claiming that they are in possession have to plead and prove as to how and in what manner they entered into possession. The correction of the revenue record by the revenue authorities would not put the appellants in possession of the property

For the reasons recorded above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications are disposed of, in terms of the abovesaid judgment.

10.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No