

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.238

RSA No.3178 of 2017 (O&M)
Date of decision: 25.09.2017

Mani Ram and others

....Appellants

versus

Municipal Council Hisar

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ajay Jain, Advocate
for the appellants.

* * *

DEEPAK SIBAL, J. (Oral)

The appellants, who were the plaintiffs before the trial court had filed a suit seeking therein permanent injunction on the ground that they were tenants in possession of 3 kanal 10 marlas land in khasra No.147//186 min (3-10) situated at Hisar, Tehsil and District Hisar (for short the suit property).

The case set up by the appellants before the trial court was that they were Gair Marusi tenants over the suit property and in that capacity had even constructed their house over the same. On being threatened to be dispossessed by the respondent, they had filed the afore-referred suit.

The trial court dismissed the appellants' suit and the appeal filed against such dismissal met the same fate as their suit giving them a cause to knock the doors of this Court through the present second appeal.

Learned counsel for the appellants has submitted that once the appellants had established their possession over the suit property, they should have been granted the claimed relief of permanent injunction.

The above submission does not deserve a favourable consideration.

As per the revenue record, the ownership of the suit property being with one Smt. Shanti wife of Mohan Lal is not disputed. It is further the admitted case of the parties that the aforesaid Shanti had leased out the suit property to the respondent-Municipal Council, Hisar for a period of 99 years from 20.04.2007 till 19.04.2106 @ Rs.1/- per year. The jamabandis which had come on record nowhere reveal either the appellants to be in possession of the suit property or their alleged status as tenants. No document was produced by the appellants showing any payment of rent by them. That being so, their settled possession over the suit property is not proved which would entitle them to a decree of permanent injunction in their favour and their recent possession over the suit property can be termed as nothing but unauthorized. The appellants have apparently encroached over the suit property and through the filing of the suit, the first appeal as also the present second appeal are only attempting to create hurdles in the way of respondent to take possession of the suit property which has admittedly been leased out to them for converting the same into a public park.

In view of the above, no interference is warranted in the concurrent findings recorded by the trial court as also appellate court and no question of law, much less a substantial question of law is found to arise in

the present appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 25, 2017
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>