

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

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RSA No.1841 of 1988 (O&M)

Date of Decision : 27.08.2018

Moola Ram @ Moola and others

..... Appellants

Versus

Jamadar Ram Chand (since deceased) through his LRs
and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. C.B.Goel, Advocate
for the appellants.

Mr. Brijesh Khosla, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below partly decreeing the suit filed by the appellants and the suit regarding injunction was dismissed.

The appellants had claimed that their ancestors had given the land in dispute to one Bihari Lal son of Bhoj Raj for religious purposes. However the descendants of Bihari Lal had left the village long ago; the land had consequently reverted back in the proprietors and the subsequent ancestors of the appellants were in possession of the land. They further pleaded that the respondents had managed the revenue record in their favour and consequently, prayed for a declaration that they were owners in

possession of the land in dispute. They had further claimed that infact the respondents also have no connection with Bihari Lal.

The case of the respondents on the other hand was that they admitted the creation of the dholi in favour of Bihari Lal but further claimed that it was an unconditional dholi and there was no question of the land reverting back to the owners and that they had validly given the land on rent.

Both the Courts held that the appellants were not able to prove that any particular services were prescribed for the dholi or that any condition was attached to it which may bar the respondents from leasing out the land in dispute. They further noticed that the entire revenue record showed the possession of the respondents and the appellants did not even step into the witness box to assert that they had the possession. Consequently, the suit was dismissed. Hence the present appeal.

Learned counsel for the appellants has argued that once it was admitted that the respondents were no longer residents of the village it was axiomatic that they had stopped rendering any services and therefore the dholi had been extinguished.

Learned counsel for the respondents on the other hand has argued that dholi is not always conditional on rendering of services and in the present case the revenue record right from 1946-1947 showed the dholi as *Bavajah Punarth*. He has however admitted that the respondents are not in possession of the land.

In the totality of circumstances, I am not persuaded to hold that the dholidari rights were extinguished because as has been found by the

Courts below the appellants were not able to prove what was the services

for which the dholi was granted and the revenue record as mentioned above shows an unconditional dholi. However, the Courts below rightly held that in view of the statement of the learned counsel for the respondents that they are not in possession injunction could be issued in favour of the appellants that they were not be dispossessed in due course except by process of law.

Appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

27.08.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No