

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

473

RSA No.1622 of 1993 (O&M)

Date of decision: 08.03.2018

Dharam Singh and others

..... Appellants

Versus

Labh Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Lalit Sharma, Advocate, for
Mr. G.S. Sandhu, Advocate
for the appellants.

Mr. Mayank Aggarwal, Advocate, for
Mr. Chetan Mittal, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Learned counsel for the appellants has pleaded no instructions.

Hence, this Court is left with no choice but to read and decide the case on merits.

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff filed a suit for permanent injunction restraining the defendants from interfering in his peaceful and exclusive possession of disputed court-yard situated in village Manakpur. Alternative relief of possession was also sought by way of amendment. The defendants contested the suit and they claimed that they are in possession of the property and the plaintiff has no right, title or interest in the same. On appreciation of evidence, both the Courts have recorded a finding that the

plaintiff is owner of the property. Reliance has been placed on various documents produced before the trial Court. The Court further noticed that there was a settlement arrived at between the parties on 07.06.1969 and Gurbachan, DW-1 who appeared on behalf of the defendant admitted the compromise/settlement to be correct.

Hence, with these finding, learned trial Court, decreed the suit. Defendants filed the first appeal. Learned First Appellate Court after re-appreciating the evidence available on the file dismissed the appeal. This Court in absence of assistance from the counsel has gone through the grounds of appeal. A reading of the grounds of appeal does not show that any misreading or non-consideration of material evidence has been pointed out. The main challenge is to the maintainability of the suit.

An owner in possession is entitled to protect his possession from interference from others. The Courts below have examined the evidence including various documents and held that the plaintiff is owner in possession. Hence, the maintainability of the suit cannot be disputed.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

08.03.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No