

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Regular Second Appeal No.2028 of 1991
Date of Decision: February 16, 2018

Pal Singh

...Appellant

Versus

Gram Panchayat/Gram Sabha of Village Kachwa, Sub Tehsil Dudhan
Sadhan, Tehsil & District Patiala

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Vikas Singh, Advocate,
for the appellant.

AMIT RAWAL, J.

Appellant-plaintiff is in Regular Second Appeal against the concurrent findings of the Courts below, whereby his claim for seeking declaration that he was in legal and authorised possession of agricultural land comprised in Khasra No.2//3 (6-16), 4 (8-0), 5(8-0), 6(8-0), 7(8-0), 8 (6-16), 13 (6-16), 14 (8-0), 15 (8-0), Khewat No.6, Khatuni No.80, situated in the revenue estate of village Kahwa, Tehsil and District Patiala as per the orders of the Collector/DDPO, Patiala dated 1.6.1987 with a further prayer of seeking restraint order from interfering or dispossessing from the suit land, has been dismissed.

Appellant-plaintiff instituted the aforementioned suit on the premise that he was in possession of the land in dispute for the last 25 years by dint of hard work/labour and by spending huge amount made the land cultivable. He was a tenant under defendant-Gram Panchayat. Initially, the lease money was ₹5/- per acre per annum, which was mutually increased to

₹200/- per acre per year.

On 1.6.1987, ejectment order was passed against the appellant-plaintiff, but the same was remained unexecutable. The defendant when started taking the possession, the suit aforementioned was filed .

The defendant-Gram Panchayat contested the suit by raising objections qua maintainability of the suit, much less denied the possession of the appellant-plaintiff. It was stated that Bhupinder Singh son of Jagir Singh of Alipur Wazir Sahib was a lessee. Actually the defendant had taken the possession of the suit land on 11.7.1988 in pursuance to the warrants issued on 1.6.1987 in ejectment proceedings.

The trial Court, on the basis of the pleadings of the parties, framed the following issues:-

- 1) Whether the civil court has jurisdiction to try this suit as alleged? OPP
- 2) Whether the suit is not maintainable in the present form as alleged? OPP
- 3) Whether the plaintiff has no locus standi to file the suit as alleged? OPD
- 4) Whether the plaintiff is in possession of the disputed land as alleged? OPP
- 5) Whether the plaintiff is entitled to declaration? OPP
- 6) Relief.”

In support of his case, appellant-plaintiff himself appeared as PW-1 and tendered into evidence documents Ex.PX/1 to Ex.PX/8 and closed the evidence. On the other hand, the respondent-defendant examined Bhupinder Singh as DW-1, Gurdial Singh Sarpanch DW-2 and Nachhattar Singh as DW-3 and tendered into evidence documents Ex.D1 to Ex.D15.

The Trial Court found that the appellant-plaintiff failed to prove per pleadings of the case, much less possession and, thus, was not

entitled to claim the possession and declaration. The appeal filed by the appellant-plaintiff also met with the same fate.

Mr.Vikas Singh, learned counsel representing the appellant-plaintiff submitted that both the Courts below committed illegality and perversity inasmuch as that Bhupinder Singh had filed a suit for permanent injunction arraying the Gram Panchayat as defendant No.7, which was dismissed as withdrawn on 7.11.1988. The assertion of the Gram Panchayat of having taken the possession on 11.7.1988 was not only wrong but bereft of any substance, for, the order dated 29.9.1988 passed by the Revenue Court reflected that there was no ejectment order against appellant Pal Singh. In fact, the Gram Panchayat had colluded with Bhupinder Singh in that suit by coining the story of ejectment. The order dated 1.6.1987 did not, at any point of time, reflect that the appellant was ejected from the land in dispute.

It was further contended that the alleged lease in favour of Bhupinder Singh by Gram Panchayat was though produced on record before the Collector, but the same had been cancelled vide order dated 9.11.1989. All these factors were ignored by the Courts below and, thus, urged this Court for setting-aside the concurrent findings.

Service in the present appeal has been effected on the respondent-Gram Panchayat. There is no representation. Accordingly, I proceed to decide the appeal on merits.

I have heard the learned counsel for the appellant-plaintiff, appraised the paper book, records of the Courts below and of the view that there is no force and merit in the submissions of Mr.Vikas Singh.

The revenue record brought on record prior to 1988, no doubt,

showed the possession of the suit land of the appellant, but in subsequent record, i.e., from 11.7.1988, the suit land was shown to be in possession of Bhupinder Singh as Chakotadar of defendant-Gram Panchayat. Khasra girdawari Ex.D1 was also in this regard. Lease deed Ex.D1, receipt Ex.D2 revealed that Bhupinder Singh was Pattedar of defendant-Gram Panchayat in respect of suit land. Ex.D4 was the warrant of possession executed by Gram Panchayat by taking the possession of the suit land.

Once the appellant-plaintiff has not been found to be in possession of the suit property, injunction could not have been granted. In my view, the findings arrived at by the Courts below were based on the oral and documentary evidence and argument of Mr.Vikas Singh has not been able to cut ice in order to enable me to form a different opinion than the one already arrived at. Resultantly, I concur with the findings of the Courts below. No ground for interference is made out, much less any substantial question of law.

Accordingly, the appeal is dismissed.

February 16, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No