

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

RSA No.4219 of 2011 (O&M)

Date of decision: 08.05.2018

Ranjit Singh and another

..... Appellants

Versus

Amarjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vijay Sharma, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

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

Plaintiffs filed a suit for permanent injunction restraining the defendants, their servants, agents, supporters from interfering or taking forcible possession from the plaintiffs with respect to the land measuring 63 kanals and 19 marlas. The plaintiffs claimed that this land was allotted to them by the Collector Agrarian, Samana vide sale certificate dated 25.04.1996.

On the other hand, the defendants contested the suit and pleaded that Karnail Singh and Harbhajan Singh were in possession of the land in dispute which was transferred to defendants No.1 and 2 through various writings on receipt of consideration Ex. D-4 to D-7 on the file. Defendant No.3 filed separate written statement and pleaded that the allotment of land in favour of the plaintiffs is illegal, null and void.

Defendant No.3 further claimed that in a previous suit decided on 27.04.1999, question of possession has been determined in their favour.

Learned trial Court after appreciating the evidence available on the file decreed the suit filed by the plaintiffs while returning a finding that the allotment in favour of the plaintiffs is proved and the plaintiffs were put in possession of the property by the State of Punjab. It was further found by the learned trial Court that the previous judgment and decree dated 27.04.1999, reliance whereupon was placed by the defendant is not effecting the rights of the plaintiffs as they were not served in the aforesaid suit.

Two separate appeals were preferred by defendants No.1 and 2 and defendant No.3. Learned First Appellate Court after re-appreciating the evidence available on the file dismissed both the appeals. Now, defendants No.1 and 2 have filed this appeal.

Learned counsel for the appellants has submitted that the possession of the plaintiffs is not proved on the file and since the suit was only for permanent injunction, therefore, the judgments passed by the Courts below are liable to be set aside. He has submitted that initially the land was in possession of Karnail Singh and Harbhajan Singh. Karnail Singh and Harbhajan Singh through writings Ex. D-4 to D-7 handed over the possession to defendants No.1 and 2 and defendants No.1 and 2 have never been evicted or dispossessed from the land.

This Court has considered the submission. However, do not find substance therein. The allotment and delivery of the possession of the land in favour of the plaintiffs-respondents is proved on the file. The defendants-appellants have only claiming possessory title.

Both the Courts below have appreciated the evidence available on the file and found that it is the plaintiffs who are in possession of the property pursuant to the aforesaid allotment of the land. The reliance placed by learned counsel for the appellants on judgment and decree dated 27.04.1999 Ex. D-2 and D-3 on record does not help the defendants as the plaintiffs in the present suit were impleaded as defendants No.6, 7 and 8 in the aforesaid suit, however, the plaintiffs have produced on file ample documents to prove that the plaintiffs in the present suit and the defendants in the aforesaid suit were not served. Reference can be made to documents Ex.P-5, P-7, P-9 to P-13.

In view of the discussion made above, this Court does not find any ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

08.05.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No