

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

RSA No.1318 of 2016 (O&M)

Date of decision: 24.04.2018

Ram Singh and another

... Appellants

Versus

Mohinder Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Naresh K. Manchanda, Advocate
for the appellants.

REKHA MITTAL, J. (Oral)

The instant appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the appellants/defendants from interfering in peaceful possession of the respondent/plaintiff and dispossessing him forcibly and illegally from land measuring 4 kanals detailed in head note of the plaint filed by the respondent/plaintiff was decreed by the trial Court vide judgment and decree dated 02.09.2014 and the appeal preferred by the appellants did not find favour with the District Judge, Ferozepur.

The respondent/plaintiff claimed himself to be in cultivating possession of the suit land, owned by the provincial Government. He has relied upon the revenue records i.e. jamabandis and khasra girdawaris in support of his plea that he is in cultivating possession of suit land. The

appellants/defendants admitted possession of the respondent/plaintiff prior to affidavit Ex.DW2/B dated 13.02.2004, stated to be executed by the respondent/plaintiff whereby he delivered possession of suit land in favour of the appellants.

The sole submission made by counsel for the appellants is that as the appellants have proved the affidavit Ex.DW2/B by examining Sanjiv Sharma, handwriting and finger prints expert DW1, judgments passed by the Courts suffer from perversity for their failure to appreciate evidence of Sanjiv Sharma in right perspective, therefore, liable to be set aside.

I have heard counsel for the appellants, perused the paper book particularly the judgments impugned.

The appellants/defendants have admitted that the respondent/plaintiff was in possession of the suit land and alleged that he delivered possession of suit land in favour of the appellants on the basis of writing/affidavit Ex.DW2/B. Counsel for the appellants, in response to a query, would fairly inform that even subsequent to the affidavit Ex.DW2/B purportedly executed by the respondent/plaintiff, revenue entries have been recorded in the name of respondent/plaintiff qua his possession of the suit land. As per the settled position in law, presumption of correctness is available to the entries in the jamabandi but the said presumption is rebuttable.

The appellants have sought to rely upon affidavit Ex.DW2/B to substantiate their plea that they are in possession of the suit land. Both the

Courts have consistently held that the document Ex.DW2/B is not admissible in evidence for want of registration as a document creating right, title or interest in immovable property of value of more than Rs.100/- requires registration in terms of Section 17 of the Indian Registration Act. There is nothing on record suggestive of the fact that the respondent/plaintiff either admitted correctness of document Ex.DW2/B much less his having delivered possession of suit land in favour of the appellants. In view of the aforesaid, the appellants failed to rebut the presumption of correctness available to entries in jamabandis, therefore, I do not find an error much less perversity in the consistent findings recorded by the Courts when otherwise present appeal does not raise a question of law that needs determination after notice to the contesting party.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

24.04.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No