

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

RSA No.1801 of 2016(O&M)
Date of decision: 17.05.2018

Ramphal and another

... Appellants

Versus

Suresh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Wazir Singh, Advocate for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiffs was decreed by the trial Court, vide judgment and decree dated 20.07.2011. As even the appeal preferred against the said decree failed and was dismissed on 30.10.2014, the defendants are in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiffs prayed for a decree for injunction restraining the defendants from causing interference in their possession over the suit land, measuring 3 kanals 6 marlas, comprised in khewat No.1233 min, khatoni No.1478, rect. No.243, killa No.14/1/3-6, situated within the revenue estate of village Munak, Tehsil Ballah, District Karnal.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the case set out by the plaintiffs was that earlier their fathers were in actual physical possession of the suit property, and post their death the plaintiffs have been in cultivating

possession thereof, without payment of any rent or batai to anybody. Plaintiff Suresh Kumar (PW1) appeared as his own witness and substantiated his claim. The plaintiffs also examined Nanu Ram, Lambardar (PW2), who also corroborated the case of the plaintiffs. Further, the entries in the jamabandi for the year 2003-04 (Ex.P1) showed that Ved Parkash father of plaintiff No.1 and Sita Ram grandfather of the plaintiffs were in possession of the suit land as gair marusi. Likewise, copy of khasra girdawari for the year 2004-05 (Ex.P2) and for the year 2008-09 (Ex.P3) also showed that Ved Parkash and Sita Ram were recorded to be in possession of the suit land. So was the position in the jamabandi for the year 1998-99 (Ex.P6). Khasra girdawari for the year 2009-10 (Ex.P7) again showed Ved Parkash and Sita Ram to be in cultivating possession of the suit land as gair marusi. Thus, from the oral as well as the documentary evidence brought on record, it was established that earlier fathers of the plaintiffs were in possession of the suit land measuring 3 kanals 6 marlas comprised in killa No.14/1(3-6) and post their death, the plaintiffs entered possession of the suit property, and continued to remain as such. The plea set out by the defendants that plaintiffs along with other co-sharers sold the suit land to the defendants and delivered possession, remained unsubstantiated for lack of cogent evidence. Nothing was brought on record either to show that the plaintiffs indeed sold the suit land in favour of the defendants. Copies of the Nakal Jamabandis (Parat Patwar) DA and DD, as also the mutation No.7707 brought on record by the defendants, also did not advance their case, for these did not pertained to the suit property, but to some other land. On being pointedly asked, learned counsel for the appellants could not refer to

anything on record to show if the conclusions recorded by both the Courts were either contrary to the record or suffered from any material illegality.

Thus, no question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

17.05.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO