

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA- 1985-2016(O&M)
Date of decision : 14.11.2018

Sheetal Singh and others Appellants

versus

Piara Singh Respondent

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.S.Yadav, Advocate for the appellants.

AMIT RAWAL, J. (ORAL)

Appellant-defendants have not been successful in defending the suit for injunction sought by the plaintiffs from forcible interference and dispossession. Plaintiffs sought the injunction in respect of land having Khewat Number 9, Khatauni No. 10, Khasara Nos. 571, 66(9-0), 1054/931/833/66(21-10), 1074/593/589/389(5-3), 762/596/389(1-3), situated at village Tohra, Tehsil Nabha as per the Jamabandi Ex.P-3 for the year 2007-08. Decree of trial Court has been affirmed by the Lower Appellate Court.

Mr.M.S.Yadav, learned counsel appearing on behalf of the appellants submitted that since the Khewat amongst the parties to the land was joint, partition proceedings were initiated. As a counter blast the aforementioned suit was filed. Thus the suit simpliciter for injunction in the absence of exclusive possession was not maintainable. This aspect has not been taken into consideration as demarcation report dated 2.6.2010, Ex.D1 is

the testimony of the joint possession, therefore, there is an illegality and

perversity.

I am afraid the aforementioned argument of learned counsel is not sustainable, for there is no doubt that in a dispute amongst the co-sharers, if one person is not in exclusive possession, the suit for injunction is not maintainable and remedy is to seek partition but if proved otherwise, injunction can be granted. A bare perusal of Ex.D1 shown during the course of hearing, under Columns No. 4 and 5 Piara Singh plaintiff has been shown to be owner in possession of Khasra Number aforementioned. The plaintiff has been able to prove his exclusive possession. It is in this background of the matter, injunction has been granted. No fault can be found in the concurrent findings of the Courts below which have been returned on the basis of oral and documentary evidence.

The appeal being devoid of merit, is dismissed.

(AMIT RAWAL)
JUDGE

14.11.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No