

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

**RSA No.3257 of 2015 (O&M)
Date of Order:15.01.2018**

Karan Singh through his LR's and others

..Appellants

Versus

Shri Chand and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhanshu Makkar, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

C.M.No.7862-C-2015

Prayer in this application is for bringing on record the legal representatives of Karan Singh, appellant no.1.

For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed, subject to all just exceptions. The legal representatives mentioned in paragraph 2 of the application are brought on record for the purpose of prosecuting this appeal only.

Office is directed to carry out necessary corrections in the memorandum of parties.

MAIN

Defendants-appellants are in regular second appeal against the concurrent findings of fact arrived at by the courts below, decreeing a suit for declaration with consequential relief of permanent injunction declaring the plaintiffs-respondents to be owners in possession of 27 kanals 15 marlas

of land.

Defendants-appellants also filed counter claim seeking declaration that the judgment and decree inter-parties dated 31.01.1996 is illegal, null and void.

It is not in dispute that the plaintiffs and the predecessors of the plaintiffs had filed a suit claiming declaration that they have become owners of the property by way of adverse possession. The aforesaid suit after contest was decreed on 11.12.1964. Appeal filed by the defendants in that suit who are the defendants herein was also dismissed except the share of Hari Singh i.e. 1/8th share.

It is not in dispute that the share of Hari Singh is not subject matter of present litigation. The relevant part of the judgment dated 31.01.1966 is extracted as under.

“10. I, accordingly, modify the judgment and decree of the learned trial Court and dismiss the appeal so far as the shares of defendants nos.1,2,3,5,8 and 9 are concerned and accept this appeal to the extent of 1/8th share in the land in dispute which is owned by Hari Singh defendant no.4, Sultan, defendant no.6 and Sharbati defendant no.7 and dismiss the suit of the plaintiffs regarding 1/8th share in the land in dispute owned by the aforementioned three defendants. Keeping in view the circumstances of the case, I leave the parties to bear their own costs. Decree sheet be prepared and the file be consigned to the records.”

After relying upon the aforesaid judgment, courts have decreed

the suit in favour of the plaintiffs.

I have heard learned counsel for the appellants at length and with his able assistance gone through the judgments passed by both the courts below.

Learned counsel for the appellants has submitted that since the judgment and decree dated 31.01.1966 has not been implemented in the revenue record, therefore, the decree now can be implemented. He has further submitted that the alleged compromise in the earlier suit Ex.C1 dated 28.09.1963 would not enure to the benefit of the plaintiffs as the suit was not decided on that basis.

I have considered the submissions. However, I do not find any substance therein.

A decree passed by a competent Court of jurisdiction between the parties have to be given effect to. Merely because the revenue record has not been updated as per the decree passed by competent Court for quite number of years, would not make the decree un-implemented. The decree passed by a competent Court is final and binding between the parties.

Next argument of learned counsel is that the previous suit was not decided on the basis of compromise dated 28.09.1963. However, both the Courts have considered this aspect and have found that once the defendant-appellants had entered into a settlement, they cannot be permitted to now resile therefrom. The first appellate court has found as under:-

“So, the plea of the appellants that the compromise Ex.C1 was never acted upon cannot be accepted. No doubt, as per proceedings of Sub Judge Ist Class, Mohindergarh after recording statement of Bhagla

defendant No.1 in that suit and plaintiff Neki Ram and counsel Sh. Arjun Singh on 07.10.1963, the case was adjourned to 18.10.1963 for compromise and time and again it was adjourned for the same purpose and thereafter, issues were framed and case was decided vide order dated 11.12.1964 but there is nothing on record to show that the compromise so got recorded by Bhagla was ever revoked before the court of Sh. Ramesh Chand Jain, PCS, Sub Judge Ist Class, Mohindergarh. Rather the plaintiffs Neki Ram etc. were held owners in possession of the land and that application for compromise under Order 23 CPC is Ex.PW1/B and that compromise is referred in judgment Ex.P1 in para No.7 and admission of Manphool and others Ex.PX and as per Ex.C1 Bhagla etc. had admitted the ownership of plaintiffs over khasra no.131 914 bigha 14 biswa) and 137 (7 bigha 12 biswa) and in lieu of that khasra numbers, the land measuring 4 killa received by Bhagla bounded on North by land of defendant Bhagla, on South area of village Dalanwas, on East area of village Dalanwas and on West property of Ramji Lal etc. was allotted and statement of Bhagla and Neki Ram was recorded and Bhagla had been admitting this compromise Ex.PW1/B and that is why he did not prefer appeal before Senior Sub Judge, Narnaul, the Appellate Authority. Rather appeal Ex.P3 was preferred by

Manphool etc. The plea of the appellants that the compromise was not acted upon is of no help to the case of the appellants.”

In view of what has been recorded hereinabove, there is no ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

January 15, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No