

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA-5857-2016 (O&M)

Date of decision: October 08, 2018

Revti and another

...Appellants

Versus

Kummi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Surinder Dagar, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/appellants filed a suit for declaration with consequential relief of permanent injunction regarding the land measuring 26 Kanals 07 Marlas, situated at village Mandkola, Tehsil Hathin, District Mewat, with the averments that plaintiffs and their predecessors-in-interest have been cultivating the suit property for last more than 50 years as *Gair Morusi* tenants under the defendants and their predecessors-in-interest and they have never been ejected therefrom. As defendants were trying to interfere into their cultivating possession over the suit property and to alienate the same, instant suit was filed by the plaintiffs. Notice of the suit was issued to the defendants. Defendants No.8 to 22 did not turn up despite service and were proceeded ex-parte. Defendants No.1, 2, 4 & 6 were proceeded ex-parte. Defendants No.3, 5 & 7 adopted the written statement filed on behalf of defendants No.1, 2, 4 and 6. In the written statement they resisted the suit on the ground that plaintiffs never

remained as *Gair Morusi* tenants over the suit property. Plaintiffs obtained order dated 5.3.1997 from Assistant Collector IInd Grade, Hathin by playing fraud and misrepresentation and succeeded to get Rapat Rojnamcha No.115 entered, on which basis revenue entries regarding the suit property were changed. In appeal, said order was set-aside and case was remanded back. Then plaintiffs filed instant suit in order to avoid the said order. After hearing both the parties and perusing oral as well as documentary evidence, the trial court dismissed the suit. It observed that since plaintiffs and defendants were co-owners of the suit property, plaintiffs cannot be considered as *Gair Morusi* tenants in respect of the land in question and thus, plaintiffs were not entitled to any relief. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. It appears, plaintiffs had been able to get the revenue entries changed on the basis of order dated 5.3.1997, passed by Assistant Collector IInd Grade. However, said order was set-aside in appeal by Assistant Collector 1st Grade as well as Commissioner and no further appeal or revision was filed against that order, which attained finality. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

(RAJAN GUPTA)
JUDGE

October 08, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No