

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

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RSA No.6116 of 2016 (O&M)

Date of Decision : 09.07.2018

Dass and others

..... Appellants

Versus

Nanak Chand and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Johan Kumar, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below partly decreeing a suit filed by the respondents.

The respondents had filed a suit under Order 1 Rule 8 of CPC claiming that the Balmiki community of Hodal town were owners and in possession of a building which was being used as Balmiki chaupal and sought an injunction restraining the appellants from taking illegal and forcible possession of portion AFHD of the Balmiki chaupal and from restraining them from raising any construction thereon and from causing any type of obstruction in the use of the same by the members of Balmiki Samaj including the plaintiffs.

Both the Courts below held that though the respondents had not been able to prove their ownership yet they had been able to prove that they

were in possession of the same but declined the injunction which was sought by the respondents.

Learned counsel for the appellants has argued that on an earlier occasion another suit which had been filed by the members of the Balmiki community had been dismissed and therefore, the present suit was barred by *res-judicata*. Both the Courts had discussed that suit and had come to the conclusion that that was filed only in personal capacity but the present suit was filed in a representative capacity. Moreover, the pleadings of the previous suit had not been placed on record and the parties were also not same and negated the plea of *res-judicata*.

I find no ground to take a different view.

Appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

09.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No