

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

RSA No.4789 of 2015 (O&M)

Date of decision:10.05.2018

Mukhtiar Singh and another ... Appellants

Vs.

Bakhshish Singh ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jagdeep S. Virk, Advocate
 for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants are in Regular Second Appeal against judgment and decree dated 15.01.2015 rendered by Lower Appellate Court, whereby, suit of the respondent-plaintiff dismissed by the trial Court, has been decreed.

Mr. Jagdeep S. Virk, learned counsel appearing on behalf of the appellant-defendants submits that respondent-plaintiff instituted the suit seeking injunction restraining the defendant from interfering in the possession of the plaintiff or dispossessing the plaintiff from the portion marked as ABCDEF out of the entire property marked as ABCDGHJF as per the site plan on the premise that he was owner in possession over the entire property. The plaintiff has constructed a manger (khurli) and has planted trees and used the property for stacking chaff(turi), sand and old bricks etc. He has been in possession of the property since last more than 30

years.

Defendant contested the suit and denied the ownership and possession of the suit property. It was averred that Bahadur Singh had expired and defendant being his legal representative had been in possession of the suit property. Property marked as CDEFG was owned and possessed by Shangara Singh who sold the same to Tarlok Singh son of Bahadur Singh, vide sale deed dated 6.10.1975 and Tarlok Singh was in possession of the suit property.

On the basis of preponderance of evidence, the trial Court dismissed the suit but the Lower Appellate Court reversed the findings, for, plaintiff has been able to prove the long and settled possession in the suit property.

I have heard the learned counsel for the appellant-defendants and appraised the judgments and decrees of the Courts below.

The description of the suit property did not tally with the description given in sale deeds i.e. Ex.D2 and Ex.D3 and site plan, (Ex.P2), aks shajra/cloth map (Ex.P6), jamabandis Ex.P3 and Ex.P4 showed that plaintiff had been in possession of the suit property. A person who is in long and settled possession cannot be dispossessed except in due course of law. The Lower Appellate Court formed the opinion that it was a case of appellant, wherein, he was in exclusive possession of plot and for the purpose of adjudication examined only aspect of possession which has been found in favour of the respondent-plaintiff.

The arguments of Mr. Virk, have not been able to bring the case within the realm of illegality and perversity enabling this Court to form different opinion than the one arrived at by Lower Appellate Court which are based upon the appreciation of oral and documentary evidence.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 10, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No