

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

RSA No. 6465 of 2016(O&M)

Date of decision: 22.2.2018

Jago Ram @ Jagdish

....Appellant

VERSUS

Municipal Committee, Kalanaur and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Parveen Kaushik, Advocate for the appellants.

REKHA MITTAL, J.

The present appeal directs challenge against judgment and decree dated 12.10.2016 passed by the Additional District Judge, Rohtak whereby appeal filed by Municipal Committee, Kalanaur– respondent No.1 against the judgment and decree dated 01.08.2015 passed by the Civil Judge (Junior Division), Rohtak (hereinafter to be referred as the trial Court) has been partly allowed by reversing findings recorded by the trial Court on issue No.2.

The facts relevant for disposal of the present appeal are that the appellant/plaintiff staked his claim for declaration with consequential relief of permanent injunction on the premise that he is owner in possession of house bearing No.1006-B/H situated in W. No.7, Kalanaur, District Rohtak. The name of the appellant was correctly recorded as owner in possession of the said house in the Municipal records but later

name of defendant No.1/respondent No.2 has been recorded on the basis of illegal order dated 16.07.2004. The appellant had taken electric and water connection in the said house. The identity card and ration card were also issued which are important pieces of evidence to prove ownership and possession of plaintiff.

The respondent No.2/defendant No.1 filed the written statement stating that he has never claimed ownership of the disputed house nor is aware of order dated 16.07.2004. He has no concern with the house in dispute nor wants to interfere in peaceful possession of the plaintiff.

Written statement on behalf of respondent No.1/defendant No.2 was filed raising preliminary objections inter alia that the suit is bad for want of notice under Section 52 of the Haryana Municipal Act and being without cause of action. However, allegations with regard to appellant being owner of the suit property were denied. It is averred that the appellant in the application and affidavits has claimed him to be in possession as a tenant and not as owner.

After having heard counsel for the parties on the basis of materials on record, trial Court answered issues No.1 and 2 in favour of the appellant/plaintiff whereas issues No.3 to 5 were answered against the respondents/defendants. The suit filed by the appellant was decreed to the effect that order, record showing defendant No.1 to be owner of the suit property are illegal and the plaintiff is owner in possession of the suit property. Defendant No.1 was restrained from interfering in possession of the plaintiff in the suit property.

Feeling aggrieved against the judgment and decree passed by the trial Court, Municipal Committee, Kalanaur filed the appeal. As has been noticed hereinbefore, the appeal was partly allowed whereby findings recorded on issue No.2 declaring the appellant/plaintiff to be owner in possession of the suit house were set aside.

Counsel for the appellant would argue that the Court in appeal seriously erred by reversing well-reasoned findings of the trial Court on issue no.2, accepting plea of the appellant to be owner in possession of the suit house. To bring home his contention, it is argued that Mohan Lal defendant No.1/respondent No.2 raised a categorical plea that he had nothing to do with the suit property rather he had admitted claim of the appellant/plaintiff. It is further argued that Municipal Committee, Kalanaur failed to produce any proof of ownership in favour of any other person, therefore, there was no reason for Court in appeal to negate plea of the appellant qua his being owner in possession of the suit house.

I have heard counsel for the appellant and perused the paper-book particularly the judgments passed by the Courts below.

Perusal of the averments raised by the appellant and noted by the trial Court in para 3 of the judgment would indicate that the appellant claimed himself to be owner in possession of suit house on the basis of electric and water connection, identity card and ration card issued in his favour. Counsel for the appellant, in response to a query, has failed to point out any materials on record to substantiate plea of the appellant that he is owner of the suit house on the basis of a document of title such as a sale deed, allotment etc. As per the settled position in law, an entry in the

records of Municipal Committee/Corporation maintained for the purpose of assessment and realisation of house tax is not a document of title. The appellant failed to adduce even an iota of evidence to establish his plea that he is entitled to seek declaration qua ownership of the suit house. The error committed by the trial Court has rightly been rectified by the Court in appeal by holding that an admission by defendant Mohan Lal or failure of Municipal Committee, Kalanaur to prove ownership of somebody else is not sufficient to record a finding declaring the appellant to be owner in possession of the suit house. In this view of the matter, I do not find an error much less perversity in the judgment of Court in appeal whereby findings on issue No.2 recorded by the trial Court have been reversed/set aside.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*. No order as to costs.

FEBRUARY 22, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no