

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

**RSA No. 2362 of 2014
Date of decision: 17.01.2018**

Hawa Singh and others

...Appellants

Versus

Pana Panghal and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.R. Gupta, Advocate,
for the appellants.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 24.01.2014 passed by the District Judge, Jhajjar, dismissing an appeal filed by plaintiff-appellants against the judgment and decree dated 30.01.2013 passed by the Civil Judge (Senior Division), Jhajjar, whereby their suit for declaration to the effect that they are owners of the suit land has been dismissed. However, keeping in view that they are in possession of the suit land since long, a decree for permanent injunction has been passed in their favour and against the defendants (respondents) restraining them from either dispossessing the plaintiffs from the suit land or interfering in their possession, except in due course of law.

Hawa Singh etc.-plaintiffs (appellants herein) filed a suit for declaration to the effect that they were proprietors of Pana Samlat Pangal of village Sasrouli. Pana Pangal was owner of land comprised in Khewat

No.197min/172, as detailed in head note of the plaint, situated within the

revenue estate of village Sasrouli, Tehsil and District Jhajjar. As per plaintiff-appellants, they are cultivating the suit land since the time of their forefathers i.e. for the last 60 years. Their cultivation is open, continuous and within the knowledge of all the proprietors. The defendants wanted to dispossess them from the suit property illegally and forcibly. Hence, the suit.

Upon notice, defendant-respondents failed to appear before the Court, therefore, they were proceeded against *ex parte*.

In order to prove their case, plaintiff-appellants had examined Badlu (PW-1), Dharampal (PW-2), Randhir (PW-3), Ramphal (PW-4) and Hawa Singh-plaintiff No.1 (PW-5).

Trial Court, after going through the evidence led by the parties, dismissed the suit *qua* relief of declaration. However, decree of permanent injunction has been granted in favour of plaintiff-appellants keeping in view their long possession. Appeal against the said judgment also met the same fate. Heard.

It has been observed by the lower Courts that plaintiffs being proprietors of Pana Pangal, to which the land was relating, such possession could not be taken as either hostile or liable to be converted into ownership.

A perusal of the impugned judgments shows that plaintiff-appellants were in possession of the suit land as per Jamabandis and Khasra Girdawaris Ex.P1 to Ex.P11 as *gair marusi* and this entry in itself would not be sufficient to return a finding that they could be declared as owners. Once, the possession of the plaintiffs was found to be *gair marusi*, suit for declaration that they are owners of the property *qua* the proprietors of Panna Pangal has rightly been dismissed.

Accordingly, after going through the impugned judgments, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

17.01.2018
ajp

(RITU BAHRI)
JUDGE

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