IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.6520 of 2016(O&M)
Date of decision: 21.05.2018

Dayanand

… Appellant

Versus

Dinesh Kumar

… Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Ranjeet Jaswal, Advocate for
Mr. JP Jangu, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff was dismissed by the trial Court, vide judgment and decree dated 24.01.2012. As even the appeal preferred against the said decree failed and was dismissed on 27.07.2015, the appellant-plaintiff is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for an injunction restraining the defendants from causing any interference in his possession over the suit land. And also that if during the pendency of the suit the defendant succeeds in dispossessing the plaintiff, he be directed to restore the site to its original position and hand over its possession.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the plaintiff failed to describe the property under his tenancy. Although in terms of Order 7 Rule 3 of the Code of Civil Procedure, it was incumbent upon the plaintiff to give description of the property so as to identify the same, but nothing in this regard was either stated or proved on record. The claim set out by the plaintiff was that he was inducted as a tenant in house No.71/3 (Old No.368), Mohalla Sanghi Ka Bass, Rewari in the year 1971. However, Dharam Pal, House-tax Clerk (PW1), examined by the plaintiff, deposed that in terms of the assessment register, from the years 1979-80 to 1981-82 (Ex.PW1/1), the property owned by Bhagwan Chand, Jhamman Lal and Manohar Lal, was bearing House Tax No.71-C. And, as depicted in the assessment register for the year 1982-83 (Ex.PW1/2), the said property stood divided into different parts bearing Nos.71/C/1, 71/C/2, 71/C/3 and 71/C/4. Therefore, if the claim of the plaintiff was to be accepted that he was inducted as tenant in the year 1971, then it would have been qua the property bearing house tax No.71/C and not 71/3. For, in that year there was a property bearing house tax No.71/C. Further, as per the assessment register for the years 1982-83 to 1985-86 (Ex.PW1/2), the plaintiff was shown to be in possession of house No.71/C/2, and apparently this property was distinct and separate from house No.71/3, qua regarding the suit was instituted. Thus, the material discrepancies that had emerged on the record remained unexplained by the plaintiff. If the plaintiff was indeed inducted as a tenant in house No.71/3/3, how could he be shown to be in possession of house No.71-C/2 in the year 1982-83? Even otherwise, nothing was brought on record to explain as to whether the plaintiff was in possession of the entire house No.71/3/3 or just a part thereof. That being so, the only and the inevitable conclusion that could be reached was; that the suit was wholly devoid of merit. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at by both the Courts were either contrary to the record or suffered from any material illegality.

Thus, no question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

21.05.2018
Rajan

Whether speaking / reasoned: YES
Whether Reportable: NO