

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

RSA No.998 of 2016 (O&M)
Date of decision: 04.04.2018

Ved Parkash Wadhwa

... Appellant

versus

Mangat Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.M.Munjal, Advocate
for the appellant.

Amit Rawal, J(Oral)

The appellant-defendant is in appeal against the judgment and decree dated 05.11.2015 whereby the appeal of the respondent-plaintiff against the dismissal of the suit vide judgment and decree dated 18.11.2014, has been allowed.

The respondent-plaintiff instituted the suit seeking the relief of permanent injunction restraining the appellant-defendant from causing illegal, unauthorised and forcible interference into the peaceful possession of the plaintiff over the land/gair mumkin Garha Khad measuring 02 marla bearing khasra No.748/2(0-2); Khewat No.317 min, Khatoni No.486 and 487 vide jamabandi for the year 2005-06 on the ground that he had been in continuous possession of the land from the last many years without any sort of hindrance and interruption from any side. The appellant-defendant wanted to dispossess the respondent-plaintiff from the suit land necessitating him to file the suit.

By raising objections on merit, it was stated that appellant-

defendant purchased the Gair Mumkin Garah in the year 1967 for a sum of Rs.50/- from one Sh. Menga Ram and had also become owner in possession of said garha by way of adverse possession. Since the possession of the appellant-defendant over the aforesaid Garha was open, continuous, adverse, hostile and uninterrupted and therefore, the suit was barred by limitation.

Both the parties in support of their respective case, by examining witnesses brought on record the oral and documentary evidence. The trial Court on the basis of aforementioned material and evidence on record, dismissed the suit. However, the lower appellate Court reversed the findings of the trial Court.

Mr. C.M. Munjal, learned counsel appearing for the appellant-defendant submitted that the respondent-plaintiff had not been able to prove the long settled possession from the last so many years to bring the case for granting permanent injunction. The revenue record did not prove the long and settled possession of the plaintiff. Even the demarcation report was not complete and thus, prayed for setting aside the judgment and decree under challenge being perverse.

I have heard learned counsel for the appellant-defendant and appraised the judgment and decree of the Courts below and of the view that there is no force and merit in the submissions of Mr. Munjal, for, the reason that appellant-defendant has not been able to prove the ownership by way of adverse possession. The question which arise for consideration before this Court is whether the plaintiff or defendant had been able to prove the continuous possession over the suit land. The plaintiff produced the revenue record i.e jamabandis for the year 1990-91 Ex.P-3, 1995-96 Ex.P-4,

2000-01 Ex.P-5, 2005-06 Ex.P-6, 2010-11 Ex.P-7 and 2010-11 Ex.P-13 and other documents to establish the possession over the suit land wherein defendant has not been able to prove the possession over the suit land. The demarcation report was in consonance with the claim in the plaint. A person, who has been found and proved to be in long and settled possession cannot be dispossessed forcibly or illegally except in due course of law in view of the law laid down by Hon'ble Supreme Court in ***Rame Gowda (D) by LRs vs. M. Varabappa Naidu (D) by LRs and anr., 2004(1) SCC 769.***

Thus, arguments of the counsel for the appellant is not able to bring the case within the realm of perversity and illegality, much less no ground is made out for interference.

Accordingly, the present appeal is dismissed.

04.04.2018

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(AMIT RAWAL)

JUDGE

Whether speaking/non-speaking? Yes/No

Whether reportable? Yes/No