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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.166 of 2017 (O&M)

Date of Decision: 05.09.2018

Gurmukh Singh

.....Appellant

Versus

Jagir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. L.S. Sidhu, Advocate
for the appellant.

ANIL KSHETARPAL J.(ORAL)

Defendant-appellant is in the Regular Second Appeal against the concurrent findings of facts arrived at by both the Courts below while decreeing the suit filed by the plaintiffs claiming decree for permanent injunction restraining the defendants from interfering in their peaceful possession as tenants.

Plaintiffs have pleaded that they are tenants since the time of their forefather and their forefather had filed a previous suit claiming that they are in possession as tenants on payment of 1/3rd share (lease money). The aforesaid suit was decreed on 16.11.1990.

The suit was contested. Defendant No.1 pleaded that the land was mortgaged with Satnam Singh which has been redeemed and possession has been delivered to the defendants whereas defendant No.5 claimed that he is a bona fide purchaser of the property vide registered sale deed dated 26.03.2010.

Both the Courts below after examining the evidence available on the file particularly the copies of the revenue record found that the plaintiffs are in possession of the property as tenants on payment of 1/3rd share and there is a decree

in their favour, declaring them to be tenants and restraining the predecessor in interest of the defendant-appellant from interfering in their possession.

Although learned counsel appearing for the appellant make sincere attempt, however, could not point out any perversity or substantive error in the judgment passed by the Courts below.

Learned counsel for the appellant has submitted that correction of khasra girdawari has been ordered and therefore the suit filed by the plaintiffs should be dismissed while reversing the judgment of the Courts below.

In the considered opinion of this Court, correction on khasra girdawari by the revenue authorities does not finally determine the possession of the property. Civil Court is entitled to independently assess the evidence and arrived at a conclusion. In the present case, both the Courts have concurrently arrived at a conclusion that the plaintiffs are tenants in possession of the property. The order passed by the revenue authorities is not binding on the civil Court being summary proceedings.

Keeping in view the aforesaid facts, there is no ground to interfere.

Regular Second Appeal is dismissed.

All the pending miscellaneous application(s), if any, is/are disposed of in terms thereof.

(ANIL KSHETARPAL)
JUDGE

September 05, 2018
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No